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TEXAS WATER CODE 1984



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Texas Water Code

Including Water Auxiliary Laws

WITH TABLES
AND INDEX

TEXAS STATE
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OCT 4 1984

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

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PREFACE

This Pamphlet contains the text of the Water Code as amended through the 1983 Regular and First Called Sessions of the 68th Legislature. The Water Code constitutes a unit of the Texas Legislative Council's statutory revision program. The Code was originally enacted by Acts 1971, 61st Leg., ch. 58.

A Disposition Table is included preceding the Code, thus providing a means of tracing repealed subject matter into the Code.

This Pamphlet also contains the Water Auxiliary Laws. These are laws which formerly appeared in Title 128, Water, of the Civil Statutes which were neither repealed by nor incorporated into the Water Code. The laws of a general and permanent nature are set out in textual form with their Civil Statutes classification. Laws of a special nature have been dropped from the Civil Statutes and are set out herein in tabular form including, where applicable, the former Civil Statutes classification. The text of these special laws may be found in the General and Special Laws of Texas.

A detailed descriptive word Index at the end of the pamphlet is furnished to facilitate the search for specific textual provisions.

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

THE PUBLISHER

July, 1984

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EFFECTIVE DATES

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

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

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

DISPOSITION TABLE

Showing where provisions of former articles of the Civil Statutes and Penal Code of 1925 were covered in the Texas Water Code as originally enacted.

CIVIL STATUTES

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
5421h-1	—	7466f § 2	42.003
5421h-2	—		42.004
6029b § 1	24.001		42.005
§ 2	24.002		42.006
§ 3(a)	24.011		42.007
§ 3(b)	24.013		42.008
§ 3(c)	24.015	§ 4	42.009
§ 3(d)	24.016	§ 5	—
	24.017	§ 6	—
§ 4(a)	24.012	7466g § 1	45.001
§ 4(b)	24.014	§ 2	45.002
§ 4(c)	24.031		45.003
	24.032		45.005
	24.033	§ 3	45.007
§ 4(d)	24.018	§ 4	45.006
§ 5(a)	24.019	§ 5	45.004
§ 5(b)	24.020	7466h § 1	43.001
§ 5(c)	24.021		43.002
§ 6	24.041	§ 2	43.003
§ 7	24.043		43.004
§ 8	24.044		43.005
§ 9	24.045		43.006
§ 10	24.042	§ 3	—
§ 11	24.046	§ 4	—
7466	1.003	7466i § 1	44.001
7466a	—		44.002
7466b	—		44.010
7466c	—	§ 2	44.003
7466d	—		44.004
7466e	—		44.005
7466e-1 § 1	41.001		44.006
	41.002		44.007
	41.009		44.008
§ 2	41.003	§ 3	44.009
	41.004	§ 4	—
	41.005	§ 5	—
	41.006	7467 subsec. (a)	5.021
	41.007		5.022
	41.008	subsec. (b)	5.021
§ 3	—	7467c § (1)	5.136
7466f § 1	42.001	§ (2)	5.137
	42.002	7467d	5.1371
	42.010		

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7468 -----	5.023(a)	7477c § 1 -----	50.251
	5.023(b)	§ 2 -----	50.252
	5.023(f)	§ 3 -----	50.253
7469 -----	5.001(a)	§ 4 -----	50.254
7470 -----	5.023(a)	§ 5 -----	50.255
	5.023(c)	§ 6 -----	50.256(a)
	5.023(d)	§ 6A -----	50.256(b)
	5.023(e)	7477d -----	6.074
7470b -----	-----	7489 -----	6.019
7471 -----	5.024	7492 -----	5.121
7472 -----	5.027	7493 -----	5.123
	5.028	7494 -----	5.124
7472a -----	5.028	7495 -----	5.142
7472b -----	5.033	7500 -----	5.125
7472c -----	6.053	7500a -----	5.140
	5.122		5.141
7472d -----	6.054	7501 -----	5.127
	11.062	7502 -----	5.126
7472d-1 -----	11.068	7503 -----	5.130
7472e -----	6.073	7504 -----	5.128
7473 -----	5.002(5)	7505 -----	5.129
	5.026	7506 -----	5.133(b)
7474 -----	5.144	7507 -----	5.133(b)
7476 -----	5.002(3)	7508 -----	5.131(a)
7477 § 1 -----	-----		5.131(b)
§ 2 -----	5.002(1)		5.131(c)
	5.002(2)	7509 -----	5.131(d)
§ 3 -----	6.011		5.131(e)
	6.012		5.131(f)
	6.013	7510 -----	5.132
	6.014		5.133(a)
	6.015	7511 -----	-----
	6.016	7513 -----	5.004
	6.017	7514 -----	6.064
	6.018	7515 -----	5.134
§ 4 -----	6.055	7515a -----	-----
	6.023	7516 -----	5.135(a)
§ 5 -----	6.024	7517 -----	5.135(b)
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§ 10 -----	6.021	§ 2 -----	5.178
§ 11 -----	6.066		5.179
§ 12(a) -----	6.101		5.180
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7477b -----	-----	§ 3 -----	5.171(1)

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7521	5.082(a)	§ 7	5.340
7522	5.082(b)	§ 8(a)	5.325
7523	5.139	§ 8(b)	5.326
7524	11.062	§ 8(c)	5.327
7525	6.052		5.328
7526	—	§ 8(d)	5.329
7527	11.062	§ 8(e)	5.330
7528	11.062		5.331
7529	6.063		5.332
7530	—		5.333
7531 § 1	6.055	§ 8(f)	5.334
	6.026	§ 8(g)	5.335
§ 2	6.061	§ 9	5.337
7532 § 1	6.068	§ 10	5.338
§ 2	6.071	§ 11	5.339
§ 3	6.069	§ 12	5.341
7533 § 1	6.070(a)	7543	5.025
	6.025	7544	5.030
§ 2	6.070(b)	7547	5.036
7535	6.068	7547a § 1	50.271
7536	5.143(b)	§ 2	50.272
7537	5.143(b)		50.273
7537a	11.065		50.274
7537b	11.066		50.275
7538	1.011(b) Rep.	§ 3	50.276
7539	1.012(b) Rep.		50.277
7540	1.011(a) Rep.	7548	5.042
7541	1.012(a) Rep.	7549	5.091(a)
7542	5.002(4)		5.091(b)
	5.025		5.091(c)
7542a § 1	5.301	7550	5.091(d)
§ 2	5.002(4)	7550a	5.087
§ 3	5.302	7551	5.050
§ 4	5.303	7554	5.084
§ 5(a)	5.304	7555	5.038(a)
	5.305	7556	5.038(b)
§ 5(b)	5.306	7557	5.039
	5.307	7558	5.039
§ 5(c)	5.308	7559	5.040
§ 5(d)	5.309	7560	5.041(a)
	5.310		5.041(b)
	5.311		5.041(g)
	5.312	7561	5.041(c)
§ 5(e)	5.313		5.041(d)
	5.314		5.041(e)
§ 5(f)	5.315	7562	5.041(f)
	5.316	7563	6.056
§ 5(g)	5.317	7565	6.060
§ 5(h)	5.318	7566	6.058
§ 5(i)	5.319		6.059
§ 5(j)	5.320	7567	—
§ 5(k)	5.321	7568	—
	5.322	7570	5.037
§ 5(l)	5.323	7571	5.043

DISPOSITION TABLE

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7572	—	7605	5.203
7573	—	7606	5.092
7574	—		5.093(b)
7575	5.083	7607	5.093(a)
7576	5.088	7608	5.094
7578	5.048	7609	6.062
7579	5.046	7610	5.093(a)
7580	5.049	7611	5.032
7581	6.065	7612	5.031(a)
7582	5.034	7612a	5.031(b)
7583	5.035	7612b	—
7585	5.044	7613	5.095
7586	5.045	7614	5.204
7587	5.052	7615	5.207
7588	5.005	7616	—
7589	5.085(a)	7617	—
7589a	5.086	7618	5.003
7589b § 1	5.401	7619	5.001(b)
	5.402(a)	7620	5.001(a)
	5.402(b)	7621	—
§ 2	5.402(c)	7621b § 1	22.001
§ 3	5.403	§ 2(a)	22.002(1)
	5.404(a)	§ 2(b)	22.002(2)
	5.404(b)	§ 2(c)	—
	5.404(c)	§ 2(d)	22.002(3)
§ 4	5.404(d)	§ 2(e)	22.002(4)
	5.405	§ 2(f)	22.002(6)
§ 5	5.409	§ 2(g)	22.002(7)
§ 9	5.406	§ 2(h)	22.002(8)
§ 10	5.407	§ 2(i)	22.002(5)
§ 11	5.409	§ 3(a)	22.011
§ 12	5.408		22.012
§ 13	5.402(c)		22.013
§ 14	5.403		22.014
	5.404(a)	§ 3(b)	22.016
	5.404(b)	§ 3(c)	22.017
	5.404(c)	§ 3(d)	22.018
§ 15	5.404(d)		22.019(a)
	5.405	§ 3(e)	22.015
7590	5.085(b)	§ 4(a)	22.031
7591	5.085(c)		22.032
	5.085(d)		22.034(a)
7592	5.029	§ 4(b)	22.033
7593	5.047	§ 5	22.019(a)
7594	—		22.019(b)
7595	—		22.034(a)
7596	5.051(a)		22.034(b)
7597	5.051(b)		22.051
7598	5.089(a)		22.052(a)
	5.089(b)		22.053
7599	5.089(c)		22.054
7600	5.201		22.055
7601	5.206		22.056
7602	5.205(a)	§ 6	22.052(b)
7603	5.205(b)	§ 7	22.101
7604	5.202		22.102

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7621b § 7	22.103	7621d-1 § 3.14	21.075
	22.104	§ 3.15	21.076
7621d-1 § 1.01	21.001	§ 3.16	21.077
§ 1.02	21.002	§ 3.17	21.078
§ 1.03	21.003	§ 3.18	21.079
§ 1.04	21.004	§ 3.19	21.080
§ 1.05	21.005	§ 3.20	21.081
§ 1.06	21.257	§ 3.21	21.082
§ 1.07	21.258	§ 3.22	21.083
	21.265		21.084
§ 1.08	21.259	§ 3.23	21.085
§ 1.09	21.260	§ 3.24	21.086
§ 1.10	21.261	§ 3.25	21.087
	21.265	§ 3.26	21.088
§ 1.11	21.263	§ 3.27	21.089
§ 1.12	21.264	§ 3.28	21.090
§ 1.13	21.006	§ 3.29(a)	21.201
§ 2.01	21.021	§ 3.29(b)	21.202
§ 2.02	21.022	§ 3.29(c)	21.203
§ 2.03	21.023	§ 3.29(d)	21.204
§ 2.04(a)	21.024	§ 3.29(e)	21.205
§ 2.04(b)	—	§ 3.30	21.091
§ 2.04(c)	21.025	§ 3.31	21.092
§ 2.05	21.026	§ 3.32	21.093
§ 2.06	21.027	§ 3.33	21.094
§ 2.07	21.028	§ 4.01(a)	21.251(a)
§ 2.08	21.029	§ 4.01(b)	21.251(b)
§ 2.09	21.030	§ 4.01(c)	21.251(c)
§ 2.10(a)	21.031	§ 4.01(d)	21.252
§ 2.10(b)	21.031	§ 4.02	21.253
§ 2.10(c)	21.032	§ 4.03	21.254
§ 2.11	21.033	§ 4.04(a)	21.255(a)
§ 2.12	21.034	§ 4.04(b)	21.255(b)
§ 2.13	21.035	§ 4.04(c)	21.255(c)
§ 2.14	21.038	§ 4.04(d)	21.255(d)
§ 2.15	21.036	§ 4.04(e)	21.256(a)
	21.037	§ 4.04(f)	21.256(b)
§ 2.16	21.039	§ 4.05	21.262
§ 2.17	21.040	§ 5.01	21.351
§ 3.01	21.061	§ 5.02	21.352
§ 3.02	21.062	§ 5.03	21.353
§ 3.03	21.063	§ 5.04	21.354
§ 3.04	21.064	§ 5.05	21.355
§ 3.05	21.065	§ 5.06	21.356
§ 3.06	21.066	§ 5.07	21.357
§ 3.07	21.067	§ 6.01	21.451
§ 3.08	21.068	§ 7.01	21.601
§ 3.09	21.069	§ 7.02	21.602
§ 3.10	21.070	§ 7.03	21.603
	21.071	§ 7.04	21.604
§ 3.11	21.072	§ 7.05	21.605
§ 3.12(a)	21.073(a)	§ 7.06	21.606
	21.073(b)	§ 7.07	21.607
	21.073(c)	§ 7.08	21.608
§ 3.12(b)	21.073(d)	§ 7.09	21.609
§ 3.13	21.074	§ 7.10	21.610

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7621d-1 § 7.11	21.611	7622b § 2	55.733
§ 7.12	21.612		55.734
7621g § 1	25.001		55.735
	25.002	§ 3	55.735
§ 2	25.003		55.736
§ 2a	25.101		55.737
	25.102		55.738
	25.103		55.739
	25.104		55.740
	25.105		55.741
	25.106	§ 4	55.742
§ 3	25.021		55.743
	25.022	§ 5	55.744
	25.023	7622b-1	55.746
	25.024	7623	55.024
	25.025		55.025
§ 4	25.033		55.026
§ 4a	25.026	7624	55.026
§ 5	25.027	7625	55.021
	25.028		55.024
	25.029	7625a	55.040
§ 6	25.030(a)	7625b	55.041
	25.030(b)	7625c	55.042
§ 7(a)	25.030(c)		55.043
	25.035	7625d	55.044
§ 7(b)	—	7625e	55.045
§ 8	25.031	7626	55.027
§ 9	25.032	7627	55.028
§ 10	25.051	7628	55.029
	25.052	7629	55.028
	25.053	7630	55.030
	25.054	7631	55.031
	25.055		55.032
	25.060		55.033
	25.061		55.034
§ 11	25.064	7632	55.031
	25.066	7633	—
§ 12	25.056	7634	55.035
	25.057		55.036
	25.058		55.037
	25.059		55.038
§ 13	25.065		55.045
§ 14	25.062	7635	55.036
	25.063		55.046
§ 15	25.034	7636	55.048
§ 16	25.004(a)	7637	55.048
§ 17	25.004(b)	7638	55.039
	25.005	7639	55.109
7622	55.022	7640	55.112
	55.023	7641	55.102
	55.161	7642	55.116
	55.163		55.117
7622b § 1	55.730	7643	55.118
	55.731		55.119
	55.732		55.120
		7644	55.110

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7645	55.049	7668	55.587
7646	55.716	7669	55.596
7647	55.717		55.597
	55.718	7670	55.598
7648	55.719		55.600
	55.720		55.601
7649	55.725	7671	55.602
	55.726	7672	55.582
	55.727	7673	55.595
	55.728	7674	55.599
7650	55.729	7675	55.603
7651	55.747	7675a	55.604
7652	55.101	7676	55.620
	55.115	7677	55.607
	55.121	7678	55.608
	55.127	7679	55.609
	55.162	7680	55.610
7652a subsec. 1	55.241	7681	55.612
	55.242		55.614
	55.245		55.615
	55.246	7682	55.616
	55.247	7683	55.617
	55.248		55.619
	55.249	7683a	55.611
	55.250		55.618
subsec. 2	55.243	7684	55.605
	55.244		55.606
	55.252	7685	55.613
subsec. 3	55.251	7686	55.331
subsec. 4	55.253		55.332
7653	55.185		55.333
	55.186		55.334
	55.187	7687	55.333
7653a	55.189		55.335
	55.190		55.336
	55.191		55.337
7653b	—		55.338
7654	55.128	7688	55.491
7655	55.126	7689	55.492
	55.127		55.493
7656	55.163		55.499
	55.164	7690	55.492
7656a	55.204		55.502
7657	55.188	7691	55.494
7658	55.581		55.495
7659	55.583	7692	—
7660	55.584	7693	55.496
7661	55.585		55.497
7662	55.586	7694	55.498
7663	55.588		55.499
7664	55.589	7695	55.501
7665	55.590	7696	55.500
7666	55.591	7697	55.530
7667	55.592	7698	55.531
	55.593	7699	55.532
	55.594	7700	55.502

DISPOSITION TABLE

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7700a	55.534	7742	55.175
7701	55.533	7743	55.173
7702	55.052	7744	55.176
7703	55.504	7745	55.167
	55.505	7746	55.166
7704	55.505	7747	55.201
7705	55.506	7748	55.176
	55.507		55.177
	55.508		55.178
7706	55.509	7749	55.202
7707	55.510	7750	55.195
7708	55.511	7751	55.351
7709	55.512	7752	55.352
7710	55.514		55.354
7711	55.421		55.356
	55.422		55.358
7712	55.516		55.359
7713	55.518		55.360
7714	55.422		55.361
7715	—		55.362
7716	—		55.363
7716a	55.515		55.364
7716b	—		55.368
7717	55.106		55.371
7718 subsec. (a)	55.104	7753	55.355
subsec. (b)	55.107		55.365
subsec. (c)	55.108		55.366
7718b	55.103	7754	55.165
7719	55.105	7755	55.357
7720	55.122	7756	55.427
7721	55.113		55.428
7722	55.111	7757	55.424
7723	55.302		55.425
7723a	55.199	7758	55.426
	55.200	7759	55.124
7724	—		55.125
7725	55.801	7760	55.123
	55.802	7761	55.125
	55.803		55.423
	55.804		55.427
7725a	55.805		55.429
7726	—	7761a	55.429
7727	—		55.430
7728	—	7762	—
7729	—	7763	55.179
7730	55.046		55.180
7731	—		55.181
7737a	55.745		55.182
7737b	55.749		55.183
7738	55.168		55.184
7739	55.169	7764	55.050
	55.170		55.051
7740	55.171	7765	55.101
	55.172		55.163
7741	55.173		55.192
	55.174	7766	55.748

DISPOSITION TABLE

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7767	55.194	7785	55.664
7768	55.367	7786	55.665
7769	55.517		55.667
7770	55.519		55.668
7771	55.513	7787	55.666
7772	55.114		55.669
	55.121	7788	—
	55.122	7789	—
7773	55.520	7790	55.196
	55.521	7791	55.621
	55.522		55.622
	55.523		55.623
	55.524		55.624
7774	—	7792	55.197
7775	—		55.198
7775a	55.047	7795	55.525
7775b § 1	55.722		55.526
§ 2	55.723		55.527
§ 3	55.724		55.528
7775c-1	51.702		55.529
	51.703	7796	—
	51.704	7797	55.203
	51.705	7798	55.203
	51.706	7799	55.503
	51.707	7800	55.193
	51.708	7801	55.711
	51.709		55.712
	51.710		55.713
	51.711		55.714
	51.712		55.715
	51.713	7802	55.053
7776	55.353	7803	55.053
	55.369	7804	55.053
7777	55.370	7805	55.053
7778	55.750	7806	55.053
	55.751	7807	55.651
	55.752		55.652
	55.753		55.653
	55.754		55.654
7779	55.670		55.655
	55.671	7807a § 1	55.291
	55.672		55.292
	55.673		55.293
	55.674		55.295
	55.675	§ 2	55.294
	55.676	§ 3	55.296
	55.677		55.297
7780	55.124		55.298
7781	55.656		55.299
7782	55.657		55.300
7783	55.659		55.303
	55.660	§ 4	55.301
7784	55.658	§ 5	55.304
	55.661	7807e § 1	55.451
	55.662	§ 2	55.452
	55.663		55.454

DISPOSITION TABLE

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7807e § 3	55.455	7880-3c subsec. B(8)	52.108
§ 4	55.453		52.109
§ 5	—		52.110
§ 6	55.457		52.111
§ 7	—	subsec. B(9)	52.102
§ 8	55.456		52.103
§ 9	55.458	subsec. B(10)	52.120
7807m § 1	55.401	subsec. B(11)	52.119
§ 2	55.401	subsec. C	52.023
	55.402		52.024
§ 3	55.403	subsec. D	52.002
§ 4	55.404	subsec. D(1)	52.003
§ 5	55.405	subsec. D(2)	52.106
	55.406	subsec. D(3)	52.118
§ 6	—	subsec. D(4)	52.118
§ 7	55.408	subsec. D(5)	52.004
§ 8	55.407	subsec. E(1)	52.026
7880-1	51.011	subsec. E(2)	52.202
7880-2	51.121(a)	subsec. E(3)	52.052
7880-3	51.046	subsec. E(4)	—
	51.047	subsec. F	52.301
	51.048		52.302
	51.049		52.303
	51.050		52.304
	51.051	subsec. G	52.201
	51.121(b)	subsec. H	52.401
	51.531	subsec. I	52.001
7880-3a	51.331		52.024
	51.332	7880-4	51.012
	51.333	7880-4a	51.184
	51.334	7880-5	51.401
	51.335	7880-6	51.402
	51.336	7880-7	51.122
	51.337		51.127
	51.338		51.128
	51.339		51.129
7880-3b	—		51.130
7880-3b1	51.148 Rep.		51.131
7880-3c subsec. A	52.001		51.132
	52.024		51.135
subsec. B	52.021	7880-8	51.414(a)
	52.022	7880-9	51.414(b)
	52.051	7880-10	51.013
subsec. B(1)	52.101	7880-11	51.014
subsec. B(2)	52.101	7880-12	51.015
subsec. B(3)	52.114	7880-13	51.016
	52.115	7880-14	51.017
	52.116	7880-15	51.018
subsec. B(4)	52.117	7880-16	51.019
	52.118	7880-17	51.020
subsec. B(5)	52.112	7880-18	51.022
	52.113		51.023
subsec. B(6)	52.104		51.024
	52.105		51.025
subsec. B(7)	52.107	7880-19	51.021
			52.025

DISPOSITION TABLE

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7880-19a	51.038	7880-43	51.080
	51.039	7880-44	51.094
7880-20	51.026		51.096
7880-21	51.027	7880-45	51.359
	51.028	7880-46	51.083
	51.029		51.092
	51.030	7880-47	51.093
	51.031	7880-48	51.122
7880-22	51.032		51.125
7880-23	51.033	7880-49	51.136
	51.077	7880-50	51.172
7880-24	51.034	7880-51	51.098
7880-25	51.074		51.099
7880-25a	51.101	7880-52	51.091
7880-26	—		51.138
7880-27	51.221	7880-53	51.156
7880-28	51.222		51.157
7880-29	51.223		51.158
	51.224		51.159
7880-30	—		51.160
7880-31	51.124		51.161
	51.404		51.162
	51.405		51.163
	51.406		51.164
7880-32	51.405		51.165
	51.406	7880-54	51.085
	51.407		51.086
	51.435		51.087
7880-32a	51.371		51.088
	51.372		51.089
	51.373		51.090
	51.374	7880-55	51.561
	51.375		51.562
7880-33	51.597	7880-56	51.563
	51.598	7880-57	51.564
	51.599		51.565
	51.600		51.566
	51.601	7880-58	51.563
7880-34	51.416		51.567
	51.417	7880-59	51.569
	51.418		51.570
7880-35	51.355	7880-60	51.568
7880-36	51.071	7880-61	51.571
	51.072		51.572
	51.084		51.575
	51.091	7880-62	51.573
	51.098	7880-63	51.576
	51.126	7880-64	51.577
7880-37	51.073	7880-65	51.578
7880-37a	51.076		51.579
7880-38	51.082	7880-66	51.574
7880-39	51.078		51.580
	51.079		51.581
7880-40	51.093		51.582
7880-41	51.081		51.583
7880-42	51.081	7880-67	51.584
	51.095		

DISPOSITION TABLE

Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7880-68	51.585	7880-77b	51.787
7880-69	51.586		51.788
7880-70	51.587		51.789
7880-71	51.588		51.790
7880-72	51.589		51.791
	51.590		51.792
7880-73	51.591	7880-77b1 § 1	51.793
	51.592	§ 2	51.794
	51.593		51.795
7880-74	51.594		51.796
7880-74a	51.595		51.797
	51.596	§ 3	51.798
7880-75	51.714	§ 4	51.799
	51.715	§ 5	51.800
	51.716	§ 6	51.801
	51.717		51.802
7880-75a	51.730	§ 7	51.803
7880-75b	51.718		51.804
	51.719		51.805
	51.720	§ 8	51.806
	51.721		51.807
	51.722		51.808
	51.723		51.809
	51.724		51.810
7880-75d	51.725	§ 9	51.811
	51.726	§ 10	51.812
	51.727		51.813
	51.728		51.814
	51.729	§ 11	51.815
7880-76	51.691		51.816
	51.692		51.817
	51.693		51.818
	51.694	§ 12	51.819
	51.695		51.820
	51.696	§ 13	51.821
	51.697		51.822
	51.698	§ 14	51.823
	51.699		51.824
	51.700	§ 15	51.825
	51.701		51.826
7880-77	51.186	§ 16	51.827
7880-77a	51.501	§ 17	51.828
	51.502	§ 19	—
	51.503	7880-78	51.408
	51.504		51.410
	51.505		51.411
	51.506	7880-79	51.408
	51.507		51.409
	51.508		51.411
	51.509		51.413
7880-77b	51.781		51.419
	51.782	7880-80	51.412
	51.783	7880-81	51.413
	51.784	7880-82	51.412
	51.785	7880-83	51.411
	51.786		51.412

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7880-84	—	7880-109	51.309
7880-84a	51.443		51.310
	51.444		51.311
	51.445		51.312
	51.446		51.313
	51.447		51.314
	51.448		51.320
	51.449	7880-110	51.306
7880-85	51.439		51.315
	51.440		51.316
7880-86	51.420	7880-111	51.308
7880-87	51.415	7880-111(a)	51.173
7880-88	51.441		51.174
7880-89	51.442		51.175
7880-90	51.433		51.176
7880-90a	51.450		51.177
	51.451	7880-111(b)	51.178
	51.452		51.179
	51.453		51.180
	51.454		51.181
7880-90b	51.455	7880-111(c)	51.182
7880-91	51.434	7880-112	—
	51.437	7880-113	51.356
7880-92	51.438		51.357
7880-93	51.403	7880-114	51.358
7880-94	51.436	7880-115	51.035
7880-95	51.423		51.036
	51.429		51.037
7880-96	51.423	7880-116	—
	51.425	7880-117	51.139
	51.426	7880-118	51.140
7880-97	51.424		51.141
	51.425	7880-119	51.142
	51.427		51.143
7880-98	51.428		51.145(b)
7880-99	51.430	7880-120	51.145(a)
7880-100	51.431		51.146
7880-101	51.432		51.147
7880-102	51.351	7880-121	51.144
7880-103	51.352	7880-122	51.134
7880-104	51.353	7880-123	51.133
7880-105	51.354	7880-123a	51.183
	51.436	7880-124	51.125
7880-106	51.317	7880-125	51.122
	51.318		51.123
	51.319		51.137
7880-107	51.360		51.159
	51.361		51.191
	51.362		51.192
7880-108	51.321		51.193
7880-109	51.301		51.194
	51.302		51.231
	51.303	7880-125a	—
	51.304	7880-126 subsec. (a)	51.233
	51.305	subsec. (b)	51.234
	51.307		51.235

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7880-126 subsec. (c)	51.236	7880-126b	51.276
	51.237		51.277(a)
	51.238		51.277(c)
	51.239		51.277(d)
	51.240		51.277(e)
	51.244		51.277(f)
subsec. (d)	51.241	7880-127	51.149
	51.245(a)	7880-128	51.150
	51.245(b)		51.151
subsec. (e)	51.246		51.152
subsec. (f)	51.248		51.153
subsec. (g)	51.247		51.154
subsec. (h)	51.245(c)		51.155
subsec. (i)	51.251	7880-129	51.732
subsec. (j)	51.233		51.733
	51.242		51.734
	51.249		51.735
	51.250		51.736
	51.252	7880-130	51.510
	51.253		51.511
	51.254		51.512
	51.255		51.513
	51.256(a)		51.514
subsec. (k)	51.243		51.515
	51.256(b)		51.516
	51.257		51.517
	51.258		51.518
	51.259		51.519
subsec. (l)	51.260		51.520
	51.261		51.521
	51.262		51.522
	51.263		51.523
	51.264		51.524
	51.265		51.525
	51.266		51.526
	51.267		51.527
	51.268		51.528
	51.269		51.529
	51.270		51.530
	51.271	7880-131	51.631
	51.272		51.632
	51.273		51.633
	51.274		51.634
	51.275	7880-132	51.635
	51.276		51.636
	51.277(a)		51.637
	51.277(b)		51.638
	51.277(c)		51.639
	51.278		51.640
	51.279		51.641
subsec. (m)	51.232		51.642
subsec. (n)	57.099(d)		51.643
	61.161(b)		51.644
	62.106(e)		51.645
7880-126a	51.268		51.646
			51.647
			51.648

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7880-133	51.649	7880-147r	51.378
	51.650		51.379
	51.651		51.380
	51.652		51.381
	51.653		51.382
	51.654		51.384
	51.655	7880-147s	51.383
	51.656	7880-147t	—
7880-134	51.657	7881	53.012
7880-135	51.052		53.061
	51.532		53.101
	51.533		53.102
	51.534	7882	53.013
	51.535		53.014
	51.536	7883	53.015
	51.537	7884	53.016
	51.538		53.017
7880-136	51.100	7885	53.018
7880-137	51.099		53.019
	51.185	7886	53.019
7880-138	51.187	7887	53.020
	51.188		53.021
	51.189	7888	53.022
7880-139	51.421	7889	53.023
	51.422	7890	53.024
7880-140	—	7891	—
7880-141	51.166	7892	53.025
	51.167		53.028
	51.168	7893	53.026
	51.169	7894	53.027
	51.170	7895	53.071
	51.171		53.072
7880-142	51.190		53.073
7880-143	51.040		53.074
	51.041		53.075
	51.042	7896	53.067
	51.043		53.068
7880-143a	51.044		53.069
7880-144	—	7897	53.086
7880-145	51.075	7898	53.085
7880-147	51.731	7899	53.144
7880-147a	—	7899a	6.075
7880-147b	51.097	7900	53.063
7880-147c	—	7901	53.064
7880-147c1	51.829	7902	53.070
	51.836	7903	53.065
7880-147c2	51.831	7904	53.065
7880-147c3	51.830	7905	53.066
7880-147c4	51.832	7906	53.143
7880-147c5	51.832	7907	53.148
	51.835	7908	53.149
7880-147c6	51.833	7909	53.105
7880-147c6a	51.834	7910	53.107
7880-147p	51.376	7911	53.106
	51.377	7912	53.076
7880-147q	51.376		53.077
			53.115

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7913	53.084	7930-3 § 10	53.262
7914	53.120		53.263
7915	53.088		53.264
7916	53.087		53.265
7917	53.103		53.266
	53.104		53.267
	53.126	§ 11	53.268
7918	53.114		53.269
7919	53.117		53.270
7920	53.116	§ 12	53.273
7921	53.118	§ 13	53.272
	53.119	§ 14	53.271
7922	53.141	7930-4 § 1	53.121
	53.142	§ 2	—
	53.171	§ 3	53.151
7923	53.108	§ 4	—
7924	53.109	§ 5	53.122
7925	53.150		53.124
7926	53.110	§ 6	53.182
7927	53.111	§ 7	51.045
7928	53.112	§ 8	53.147
7929	53.113	§ 9	—
7930	53.125	§ 10	53.116
7930-2 § 1	53.231	7930-5 § 1	53.029
§ 1(a)	53.232		53.030
	53.233(b)	§ 2	53.031
§ 1(b)	53.233(a)		53.032
	53.234		53.033
	53.235		53.034
	53.236		53.035
§ 1(c)	53.237		53.038
§ 1(d)	53.238		53.041
§ 2	53.239	§ 3	53.037
	53.240		53.039
	53.241	§ 4	53.036
	53.242		53.040
	53.243		53.042
	53.244	§ 5	53.043
§ 3	53.245	§ 6	—
7930-3 § 1	53.246	7931	53.172
§ 2	53.247	7932	53.173
	53.248	7933	53.174
	53.249	7934	53.145
	53.250	7935	53.175
	53.251	7936	53.176
§ 3	53.252	7937	53.177
§ 4	53.253	7938	53.178
	53.254	7939	53.179
§ 5	53.255	7940	53.181
§ 6	53.256	7941	53.180
§ 7	—	7941a	53.184
§ 8	53.257	7941c	53.182
§ 9	53.258		53.183
§ 10	53.259		53.185
	53.260	7942	53.189
	53.261		53.190
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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
7943	53.191	7982	57.096
7944	53.192	7983	57.095
7945	53.194	7984	57.100
7946	53.195		57.101
7947	53.193	7985	57.097
7948	53.078	7986	57.120
	53.079	7987	57.051
	53.082		57.053
	53.083		57.056
7949	53.080	7987-1	57.057
7950	53.081		57.058
7951	53.196		57.059
7952	53.188		57.060
7953	53.186		57.061
7954	53.187		57.062
7955	53.197		57.063
7956	53.198	7988	57.054
7957	53.146		57.055
7958	53.199	7989	57.052
7959	53.200		57.067
7959a	53.089	7990	57.151
7960	—		57.154
7962	11.451		57.155
7963	11.452		57.156
7964	11.453	7991	57.261
7965	11.454		57.262
7966	11.454	7992	57.264
7967	11.455	7993	57.263
7968	11.455		57.265
7969	11.456		57.266
7970	11.457	7994	57.267
7971	—	7995	57.269
7972	57.011		57.270
	57.091	7996	57.268
7973	57.152		57.271
	57.153	7997	57.259
7974	57.012	7998	57.252
	57.014		57.253
	57.015		57.254
7975	57.015		57.255
7976	57.013		57.256
7977	57.016		57.257
7978	57.017		57.258
	57.018	7999	57.177
7979	57.019	8000	57.202
	57.020	8001	57.203
	57.021		57.205
	57.022	8002	57.206
	57.023		57.204
	57.024	8003	57.204
	57.025	8004	57.205
7980	57.092	8005	57.207
	57.121	8006	57.276
	57.171	8007	57.208
	57.201	8007a	—
7981	57.098	8008	57.212
	57.099		

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
8009	57.209	8029f	57.344
	57.210	8029g	57.331
8010	57.210		57.332
8011	57.211		57.335
8012	57.215	8029h	57.335
	57.251	8029i	57.339
	57.260		57.340
8013	57.276	8029j	57.337
	57.277		57.340
	57.278	8029k	57.339
8014	57.272		57.341
8015	57.174	8029l	57.340
	57.175	8029m	57.338
	57.176		57.341
8016	57.279	8029n	57.336
8017	57.280	8029o	57.333
	57.281		57.345
	57.282	8029p	57.346
	57.283	8029q	57.334
	57.284	8030	57.216
8018	57.213	8031	57.273
8018a	57.213	8032	57.274
8019	57.064	8033	57.275
	57.065	8034	57.094
	57.066	8035	57.103
8020	57.173	8036	57.119
8021	57.172	8037	57.026
8022	57.068	8038	—
8023	57.104	8039	—
	57.105	8040	—
	57.106	8041	—
	57.108	8042	—
	57.109	8097	56.011
	57.110		56.013
	57.111		56.201
	57.112	8098	56.014
	57.113	8099	56.015
8024	57.115	8100	56.016
	57.116		56.017
	57.117	8101	56.018
	57.118	8102	56.082
8025	57.114	8103	56.019
8026	57.069	8104	56.020
	57.070	8105	56.021
8027	57.093	8106	56.022
8029	57.321	8107	56.022
	57.322	8108	56.023
	57.323	8109	56.024
8029a	57.324	8110	56.025
	57.326		56.026
8029b	57.325	8111	56.027
	57.326		56.029
8029c	57.328	8112	56.028
	57.329	8113	56.029
8029d	57.330	8114	—
8029e	57.343	8115	56.030
			56.031(a)

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
8116	56.031(b)	8161a § 1	56.1221
8117	56.012	§ 2	56.136
8118	56.061	§ 3	56.137
	56.062	§ 4	56.138
	56.063	§ 5	56.139
8119	56.064	§ 6	56.122
8120	56.067		56.136
8121	56.065		56.137
8122	56.066		56.138
8123	56.068	8161c	56.126
8124	56.078	8162	56.125
	56.079	8163	56.125
8125	56.115	8164	56.125
8126	56.116	8165	56.134
8127	56.202	8166	56.131
8128	56.123	8167	56.141
8129	56.124	8168	56.141
8130	56.203	8169	56.141
8131	56.204	8170	56.142
8132	56.205	8171	56.142
8133	56.206	8172	56.112
8134	56.207	8173	56.080
8135	56.208		56.081
8136	56.241	8174	56.083(a)
8136a	56.210	8175	56.083(b)
8137	56.127	8176	56.032(b)
8138	56.242	8176a § 1	—
8139	56.209	§ 2	—
8140	56.076	§ 3	56.211
	56.243	§ 4	56.212
8141	56.245	§ 5	56.069
8142	56.244	8176c	56.143
8143	56.073	8177	56.291
	56.074		56.295
	56.075	8178	56.292
8144	56.246	8179	56.293
8145	56.077	8180	56.294
8146	56.181	8181	56.295
8147	56.070	8182	56.296
	56.071	8183	56.297
8148	56.072		56.299
8149	56.184	8184	56.300
8150	56.182		56.301
	56.183		56.303
8151	56.119	8185	56.303
8152	56.118	8186	56.305
8153	56.140	8187	56.306
8154	56.111		56.309
8155	56.117	8188	56.308
	56.129	8189	56.307
8156	56.129	8190	56.310
8157	56.132	8191	56.304
8158	56.130	8192	56.298
8159	56.133		56.302
8160	56.120	8193	56.311
8161	56.121	8194	55.021
			56.011

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
8195	56.032(a)	8225	61.115
8196	56.032(c)		61.116
8197	56.032(d)		61.117
8197b	56.210	8226	—
8197c § 1	56.247	8227	61.112
§ 2	56.248	8227a	60.011
§ 3	56.249		60.012
§ 4	56.250		60.013
	56.251		60.014
8197e	—	8228	61.082
8197f § 1	50.151	8229	61.151
§ 2	50.152	8230	61.152
	50.153	8231	61.153
	50.154	8232	61.154
	50.155	8233	61.155
	50.156		61.156
	50.157	8234	61.157
8198	61.022	8235	61.158
	61.111		61.159
8199	61.023		61.160
8200	61.024	8236	61.171
	61.025	8237	61.175
8201	61.026	8238	61.161
8202	61.027		61.162
	61.028		61.172
8203	61.029		61.173
8204	61.030	8239	61.163
8205	61.031	8240	61.164
	61.032	8241	61.165
8206	61.033	8242	61.166
8207	61.035		61.167
8208	61.036	8243	61.168
8209	61.071	8244	60.271
	61.073		60.272
	61.074		60.273
	61.077	8244a § 1	62.154
8210	61.075	§ 2	62.154
8211	61.076		62.155
8212	61.072	§ 3	62.156
8213	61.231		62.157
8214	61.238	§ 4	62.158
8215	61.232	§ 5	62.159
8216	61.233	§ 6	—
8217	61.234	§ 7	—
8217a	60.221	8245	61.174
8218	61.235	8246	61.169
8219	61.211	8247	61.176
8220	61.078	8247a § 1	60.101
	61.213	§ 1a	60.102
8221	61.079	§ 2	60.103
	61.080		60.105
	61.212	§ 3	60.104(a)
8222	61.236		60.104(b)
8223	61.239	§ 4	60.104(c)
8224	61.118		60.108
	61.120	§ 5	60.106
	61.237		

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Civ.St. Article	Water Code Section	Civ.St. Article	Water Code Section
8247a § 6	60.109	8247e § 3	60.204
§ 7	60.119	§ 4	60.205
§ 7a	60.118	8258	—
§ 8	60.110	8259	61.034(a)
§ 9	60.113	8260	61.034(b)
§ 10	60.107		61.034(c)
§ 11	60.111	8261	—
§ 12	60.112	8262	61.034(d)
§ 13	60.120	8263	61.081
§ 14	60.114	8263a § 1	60.241
§ 15	60.115		60.242
§ 16	60.121		60.243
§ 17	—		60.244
§ 18	60.122		60.245
§ 18a	60.104(a)	§ 2	60.246
§ 18b	60.116	§ 3	62.291
§ 18c	60.117		62.292
§ 19	60.123		62.293
8247b § 1(a)	60.031		62.294
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§ 1(a-1)	60.033		62.296
§ 1(b)	60.034		62.297
	60.035		62.298
	60.036		62.299
	60.037		62.300
§ 1(c)	60.038		62.301
	60.039		62.302
	60.040		62.303
	60.041		62.304
	60.042		62.305
§ 1(d)	60.043		62.306
§ 1(e)	60.044	§ 3a	62.307
8247b-1 § 1	60.071		62.308
	60.072		62.309
§ 2	60.073		62.310
	60.078		62.311
§ 3	60.079		62.312
§ 4	60.077		62.313
§ 5	60.074		62.314
§ 6	60.075		62.315
§ 7	60.076		62.316
8247d § 1	60.171		62.317
§ 2	60.176		62.318
§ 3	60.174	§ 4	62.021
§ 4	60.177		62.022
§ 5	60.178		62.101
§ 6	60.179		62.102
§ 7	60.180	§ 5	62.062
§ 8	60.172		62.063
§ 9	60.173		62.065
§ 10	60.175		62.066
§ 11	60.178		62.067
§ 12	60.175		62.070
§ 13	60.181	§ 6	60.301
8247e § 1	60.201	8263d § 1	60.152
§ 2	60.202	§ 2	60.153
	60.203	§ 3	60.151

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§ 2	63.022		63.287
	63.023		63.288
	63.151	§ 31	63.289
	63.152		63.290
§ 3	63.024	§ 32	63.284
	63.025		63.291
	63.027		63.297
	63.028	§ 33	63.285
§ 4	63.026(a)		63.292
	63.026(b)	§ 34	63.293
	63.026(c)		63.294
	63.029		63.296
§ 7	63.026(d)	§ 35	63.106
§ 8	63.030		63.294
§ 9	63.031		63.295
	63.032	§ 36	63.105
§ 10	63.033		63.158
	63.035		63.159
	63.036		63.160
§ 11	63.034		63.161
§ 12	63.035	§ 37	63.251
	63.036	§ 38	63.252
§ 13	63.037	§ 39	63.223
	63.038	§ 40	63.222
§ 14	63.081	§ 41	63.153
	63.082	§ 42	63.162
	63.083	§ 43	63.163
	63.086		63.164
§ 15	63.084		63.165
§ 16	63.085		63.166
§ 17	63.088		63.167
§ 18	63.086	§ 44	63.166
	63.089	§ 45	63.166
§ 18a	63.087		63.167
§ 19	63.091	§ 46	63.253
	63.092	§ 47	63.254
§ 20	63.093		63.255
§ 21	63.094	§ 48	63.257
§ 22	63.095	§ 49	63.256
§ 23	63.096	§ 50	63.221
	63.097		63.225
	63.108	§ 51	63.281
§ 24	63.108		63.282
§ 25	63.098		63.283
§ 26	63.110	§ 53	63.323
	63.111		63.324
§ 27	63.099	§ 54	63.325
	63.107		63.326
§ 28	63.100		63.327
	63.101		63.328
	63.102		63.329
	63.103		63.330
	63.104		63.331
§ 29	63.285		63.332
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8263e § 56	63.334	8263h § 2	62.025
§ 57	63.338		62.027
	63.339	§ 3	62.026
§ 58	63.335		62.061
	63.336	§ 4	62.025
§ 59	63.341		62.027
§ 60	63.339	§ 5	62.061
§ 61	63.337	§ 6	62.103
§ 62	63.340	§ 7	62.028
§ 63	63.156	§ 8	62.029
§ 64	63.155	§ 9	62.030
§ 65	63.154		62.032
§ 66	63.168	§ 10	62.031
	63.169	§ 11	62.033
	63.170	§ 12	62.034
§ 67	63.171		62.035
§ 68	63.172	§ 13	—
§ 69	63.173	§ 14	62.068
§ 70	63.175	§ 15	62.069
§ 71	63.176	§ 16	62.071
§ 72	63.177	§ 17	62.076
§ 73	63.106		62.104
	63.107		62.118
	63.109	§ 18	62.191
§ 74	63.174		62.192
§ 75	63.112		62.193
§ 76	63.157	§ 19	62.194
§ 77	63.153	§ 20	62.195
	63.180	§ 21	62.196
§ 78	63.179	§ 22	62.197
§ 79	63.178		62.198
§ 80	63.107	§ 23	62.199
§ 81	63.181	§ 24	62.200
	63.182	§ 25	62.201
§ 82	63.183	§ 26	62.024
§ 83	—		62.036
§ 84	63.224		62.151
§ 85	63.224	§ 27	62.160
§ 86	63.226		62.202
§ 87	63.227	§ 28	62.202
§ 88	—	§ 29	62.251
§ 89	63.090		62.252
§ 90	63.151		62.254
§ 93	63.039		62.255
	63.040		62.257
	63.041	§ 30	62.251
	63.042		62.252
	63.043		62.253
	63.044		62.256
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§ 2	62.204	§ 31	62.259
§ 3	62.205	§ 32	62.073
§ 4	62.206		62.153
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§ 2	62.023	§ 34	62.106

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8263h § 35	-----62.105	8280-9 § 4(c)	-----11.152
§ 36	-----62.108		11.153
§ 37	-----62.110		11.154
	62.111		11.155
§ 38	-----62.109	§ 4(d)	-----11.156
§ 39	-----62.113		11.158
§ 40	-----62.114	§ 4(e)	-----11.160
§ 41	-----62.115	§ 4(f)	-----11.164
§ 42	-----62.116	§ 5	-----11.159
§ 43	-----62.117	§ 6	-----11.161
§ 44	-----62.077		11.162
	62.152		11.163
§ 45	-----62.112	§ 7	-----11.149
§ 46	-----62.078		11.151
§ 47	-----62.072	§ 8	-----11.143
§ 48	-----62.208		11.150
§ 49	-----	§ 9	-----11.201
§ 50	-----62.107	§ 9(a)	-----11.203
§ 51	-----62.119		11.207
§ 52	-----62.119	§ 9(b)	-----11.202
8280-1	-----50.021	§ 9(c)	-----11.204
8280-5	-----	§ 9(d)	-----11.205
8280-7 § 1	-----50.101	§ 10-A	-----11.202
	50.102	§ 10-B	-----11.207
§ 2	-----50.103		11.208
§ 3	-----50.104	§ 10-B(a)	-----11.209
§ 4	-----50.105		11.210
§ 5	-----50.106	§ 10-B(b)	-----11.211
8280-8	-----50.201	§ 10-B(c)	-----11.212
8280-9 § 1	-----	§ 10-C	-----11.157
§ 2	-----11.001(1)		11.218
§ 3(a)	-----11.011	§ 10-D	-----11.213
	11.012		11.214
	11.013		11.215
	11.014		11.216
	11.015		11.217
	11.016(b)	§ 11	-----11.401
	11.016(c)		11.403
	11.017	§ 12(a)	-----11.202
§ 3(b)	-----11.101		11.301
	11.102		11.303
	11.103	§ 12(b)	-----11.301
	11.104		11.302
	11.105		11.306
	11.106	§ 12(c)	-----11.303
	11.107		11.305
§ 3(c)	-----11.018	§ 12(d)	-----11.307
§ 3(d)	-----		11.308
§ 4(a)	-----11.141		11.309
§ 4(b)	-----	§ 12(e)	-----11.351
§ 4(c)	-----11.142		11.352
	11.144		11.353
	11.145		11.354
	11.146		11.355
	11.147	§ 12(f)	-----11.356
	11.148		11.358

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§ 12(i)	11.360		§ 21(k)	11.021
§ 12(j)	11.361		§ 21(l)	—
§ 12(k)	11.206		§ 21(m)	11.458
	11.304		§ 22	11.022
	11.362		§ 23	11.026
	11.363		§ 24(a)	11.251
	11.364		§ 24(b)	11.252
	11.365		§ 24(c)	11.252
§ 12(l)	11.366		8280-9b subsec. (a)	11.501
§ 12(m)	11.310		subsec. (b)	11.502
§ 12(n)	11.311		subsec. (c)	11.503
§ 12(o)	11.206		8280-11	50.051
	11.367		8280-12 § 1	14.001
	11.368		§ 2	14.002
§ 12(p)	11.024		§ 3, subd. 1	14.015
§ 12(q)	11.025		subd. 2	14.011
§ 13	11.402(a)			14.013
§ 14	11.402(b)		subd. 3	14.014
	11.404		subd. 4	14.016
	11.405		subd. 5	14.017
§ 15	11.406		subd. 6	14.019(a)
	11.407		subd. 7	14.018
	11.408 Rep.		subd. 8	14.019(b)
	11.409		subd. 9	14.019(c)
	11.410		§ 4	14.020
	11.411		§ 5	14.023
	11.414			14.093
	11.415		§ 6 subd. 1	14.021
§ 16	11.412(c)		subd. 2	14.022
	11.413		§ 7	14.041
§ 17	11.412(a)		§ 8	14.042
	11.412(b)		§ 9 subd. 1	14.043
§ 18	11.416		subd. 2	14.012
	11.417			14.044
	11.418			14.045
	11.419			14.046
	11.420		§ 10	14.012
§ 19	11.025			14.061
§ 20	—		§ 11	14.063
§ 21	11.016(a)			14.064
	11.019			14.070
	11.020		§ 12	14.065
	11.021		§ 13	14.066
	11.022			14.067
	11.023		§ 14	14.068
	11.061		§ 15	14.062
§ 21(a)	11.062		§ 16	14.071
§ 21(b)	11.069		§ 17 subd. 1	14.091
§ 21(c)	11.062			14.092
§ 21(d)	11.067		subd. 2	14.069
§ 21(e)	11.072		§ 18	14.101
§ 21(f)	11.063			14.102
§ 21(g)	11.064		§ 19	14.111
§ 21(h)	11.063			
	11.071			

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375	57.107	§ 3	—
376	56.135	§ 4	23.002
377	—	§ 5	23.004
378	53.123	§ 6	23.002
783	5.096		23.004
838	—	849	—
839	—	850	57.095
840	—	851	61.113
841	—		61.114
842	—	852	56.113
843	—		56.114
844	—	1356	56.128
845	5.201	1357	—
846	—	1360	—
847	5.205(c)	1361	—
848	5.203	1362	5.090
848a § 1	23.002	1363	57.102

WATER CODE

Acts 1971, 62nd Leg., Ch. 58.

Effective August 30, 1971

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TITLE 1. GENERAL PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

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1.003. Public Policy.

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SUBCHAPTER A. PURPOSE AND POLICY

§ 1.001. Purpose of Code

(a) This code is enacted as a part of the state's continuing statutory revision program, begun by the Texas Legislative Council in 1963 as directed by the legislature in Chapter 448, Acts of the 58th Legislature, Regular Session, 1963 (Article 5429b-1, Vernon's Texas Civil Statutes). The program contemplates a topic-by-topic revision of the state's general and permanent statute law without substantive change.

(b) Consistent with the objectives of the statutory revision program, the purpose of this code is to make the general and permanent water law more accessible and understandable, by:

(1) rearranging the statutes into a more logical order;

(2) employing a format and numbering system designed to facilitate citation of the law and to accommodate future expansion of the law;

(3) eliminating repealed, duplicative, unconstitutional, expired, executed, and other ineffective provisions; and

(4) restating the law in modern American English to the greatest extent possible.

(c) This restatement shall not in any way make any changes in the substantive laws of the State of Texas.

(d) Laws of a local or special nature, such as statutes creating various kinds of conservation and reclamation districts, are not included in, or affected by, this code. The legislature believes that persons interested in these local and special laws may rely

on the session laws and on compilations of these laws.

[Acts 1971, 62nd Leg., p. 110, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 1.002. Construction of Code

The Code Construction Act (Article 5429b-2, Vernon's Texas Civil Statutes) applies to the construction of each provision in this code, except as otherwise expressly provided by this code.

[Acts 1971, 62nd Leg., p. 111, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 1.003. Public Policy

It is the public policy of the state to provide for the conservation and development of the state's natural resources, including:

- (1) the control, storage, preservation, and distribution of the state's storm and floodwaters and the waters of its rivers and streams for irrigation, power, and other useful purposes;
- (2) the reclamation and irrigation of the state's arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of the state's overflowed land and other land needing drainage;
- (4) the conservation and development of its forest, water, and hydroelectric power;
- (5) the navigation of the state's inland and coastal waters; and
- (6) the maintenance of a proper ecological environment of the bays and estuaries of Texas and the health of related living marine resources.

[Acts 1971, 62nd Leg., p. 111, ch. 58, § 1, eff. Aug. 30, 1971.] Amended by Acts 1975, 64th Leg., p. 925, ch. 344, § 1, eff. June 19, 1975.]

[Sections 1.004 to 1.010 reserved for expansion]

SUBCHAPTER B. DEFINITIONS

§§ 1.011, 1.012. Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10, eff. May 31, 1971

[Chapters 2 to 4 reserved for expansion]

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5.356. Appeal by Executive Precluded.
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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. Sections 8 to 12 of the Act provided:

"Sec. 8. (a) On the effective date of this Act, the governor shall appoint the initial members to the Texas Water Commission.

"(b) The persons initially appointed to the commission shall be designated to serve by the governor as follows: one member of the commission to serve a two-year term, one member of the commission to serve a four-year term, and one member of the commission to serve a six-year term.

"(c) The initial members of the commission shall take office on September 1, 1977.

"Sec. 9. (a) The Texas Department of Water Resources and the Texas Water Commission, as provided in Section 1 of this Act, are created effective September 1, 1977, and the existing Texas Water Rights Commission and Texas Water Quality Board are abolished on September 1, 1977.

"(b) The department is the successor to the Texas Water Quality Board and Texas Water Rights Commission and incorporates the Texas Water Development Board and shall carry out their respective duties, responsibilities, and functions from the effective date of this Act as provided by law, including acts of this legislature.

"(c) The abolishment of the Texas Water Rights Commission shall not affect or impair any act done or obligation, right, license, permit, or penalty accrued or existing under the authority of the prior

law, and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning such obligation, right, license, permit, or penalty. No action or proceeding commenced prior to the effective date of this Act shall be affected by its enactment.

"(d) The rights, powers, and duties delegated by law to the Texas Water Rights Commission which are not expressly assigned to the Texas Water Commission are expressly transferred to the Texas Department of Water Resources in accordance and consistent with Title 2, Subtitle A, Chapter 5, Subchapter B of this code.

"(e) The abolishment of the Texas Water Quality Board shall not affect or impair any act done or obligation, right, license, permit, water quality criteria, standard or requirement, or penalty accrued or existing under the authority of the prior law, and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning such obligation, right, license, permit, water quality criteria, standard or requirement, or penalty. No action or proceeding commenced prior to the effective date of this Act shall be affected by its enactment.

"(f) The rights, powers, and duties delegated by law to the Texas Water Quality Board are expressly transferred to the Texas Department of Water Resources as is provided herein or in accordance and consistent with Title 2, Subtitle A, Chapter 5, Subchapter B of this code.

"Sec. 10. The members of the Texas Water Development Board serving as members of the board on the effective date of this Act shall continue in office until the expiration of their respective terms.

"Sec. 11. On September 1, 1977, all personnel, equipment, data, documents, facilities, and other items of the Texas Water Rights Commission, the Texas Water Development Board, and the Texas Water Quality Board shall be transferred to the Texas Department of Water Resources.

"Sec. 12. The officers and employees of the existing Texas Water Rights Commission, the Texas Water Development Board, and the Texas Water Quality Board shall cooperate fully with the reorganization."

WATER CODE
DISPOSITION TABLE

Showing where provisions of former Title 2 of the Water Code are now covered in revised Title 2.

Former Sections	Revised Sections	Former Sections	Revised Sections
5.001	11.001	5.096	11.096
5.002	11.002	5.121	11.121
5.003	11.003	5.1211	11.122
5.004	11.004	5.122	11.123
5.005	11.005	5.123	11.124
5.021	11.021	5.124	11.125
5.022	11.022	5.125	11.126
5.023	11.023	5.126	11.127
5.024	11.024	5.127	11.128
5.025	11.025	5.128	11.129
5.026	11.026	5.129	11.130
5.027	11.027	5.130	11.131
5.028	11.028	5.131	11.132
5.029	11.029	5.132	11.133
5.030	11.030	5.133	11.134
5.031	11.031	5.134	11.135
5.032	11.032	5.135	11.136
5.033	11.033	5.136	11.137
5.034	11.034	5.137	11.138
5.035	11.035	5.1371	11.139
5.036	11.036	5.138	11.140
5.037	11.037	5.139	11.141
5.038	11.038	5.140	11.142
5.039	11.039	5.141	11.143
5.040	11.040	5.142	11.144
5.041	11.041	5.143	11.145
5.042	11.042	5.144	11.146
5.043	11.043	5.145	11.147
5.044	11.044	5.171	11.171
5.045	11.045	5.172	11.172
5.046	11.046	5.173	11.173
5.047	11.047	5.174	11.174
5.048	11.048	5.175	11.175
5.049	11.049	5.176	11.176
5.050	11.050	5.177	11.177
5.051	11.051	5.178	11.178
5.052	11.052	5.179	11.179
5.081	11.081	5.180	11.180
5.082	11.082	5.181	11.181
5.083	11.083	5.182	11.182
5.084	11.084	5.183	11.183
5.085	11.085	5.184	11.184
5.086	11.086	5.185	11.185
5.087	11.087	5.186	11.186
5.088	11.088	5.201	11.201
5.089	11.089	5.202	11.202
5.090	11.090	5.203	11.203
5.091	11.091	5.204	11.204
5.092	11.092	5.205	11.205
5.093	11.093	5.206	11.206
5.094	11.094	5.207	11.207
5.095	11.095	5.301	11.301
		5.302	11.302

STATE WATER ADMINISTRATION

Former Sections	Revised Sections	Former Sections	Revised Sections
5.303	11.303	6.051	5.261
5.304	11.304	6.052	5.267
5.305	11.305	6.053	5.268
5.306	11.306	6.054	12.014
5.307	11.307	6.055	5.262
5.308	11.308	6.056	12.013(a)
5.309	11.309	6.057	12.011
5.310	11.310	6.058	5.264
5.311	11.311	6.059	5.265
5.312	11.312	6.060	
5.313	11.313	to	
5.314	11.314	6.062	—
5.315	11.315	6.063	12.015
5.316	11.316	6.064	12.016
5.317	11.317	6.065	12.017
5.318	11.318	6.066	—
5.319	11.319	6.067	12.012
5.320	11.320	6.068	5.182
5.321	11.321	6.069	12.112
5.322	11.322	6.070	12.113
5.323	11.323	6.071	12.114
5.324	11.324	6.072	5.052(a)
5.325	11.325	6.073	12.051
5.326	11.326	6.0731	12.052
5.327	11.327	6.074	12.081
5.328	11.328	6.075	12.082
5.329	11.329	6.076	12.141
5.330	11.330	6.101	5.351
5.331	11.331	6.102	5.352
5.332	11.332	6.103	5.353
5.333	11.333	6.104	5.354
5.334	11.334	6.105	5.355
5.335	11.335	11.001	16.001
5.336	11.336		17.001
5.337	11.337	11.011	5.091
5.338	11.338	11.012	5.092
5.339	11.339	11.013	5.093
5.340	11.340	11.014	5.094
5.341	11.341	11.015	5.095
5.401	11.401	11.016	5.096
5.402	11.402	11.017	5.097
5.403	11.403	11.018	5.172
5.404	11.404	11.019	5.135
5.405	11.405	11.020	5.180
5.406	11.406	5.021	5.176
5.407	11.407	11.022	—
5.408	11.408	11.023	5.098
5.409	11.409	11.024(1)	5.174(c)
6.001	12.001	11.024(2)	16.137(b)
6.011	5.221		16.181(b)
6.012	5.222	11.025	5.131
6.013	5.224	11.026	5.055
6.014	—	11.061	5.171
6.015	5.223		16.011
6.016	5.223	11.062	16.012
6.017	5.225	11.063	16.013
6.018	5.226	11.064	16.014
6.019		11.015	16.015
to		11.066	16.016
6.025	—	11.067	16.017
6.026	5.266	11.068	16.018

WATER CODE

Former Sections	Revised Sections	Former Sections	Revised Sections
11.069	16.019	11.305	16.135
11.070	16.021	11.306	16.136
11.071	5.173	11.307	16.137
11.072	16.020	11.308	16.138
11.101	16.051	11.309	16.139
11.102	16.052	11.310	16.140
11.103	16.053	11.311	16.141
11.104	16.054	11.351	16.181
11.105	16.055	11.352	16.182
11.106	16.056	11.353	16.183
11.107	16.057	11.354	16.184
11.1081	16.058	11.355	16.185
11.141	17.011	11.356	16.186
11.1411	17.011 note	11.357	16.187
11.142	17.012	11.3571	[16.1871]
11.143	17.013	11.358	16.188
11.144	17.014	11.359	16.189
11.145	17.015	11.360	16.190
11.146	17.016	11.361	16.191
11.147	17.017	11.362	16.192
11.148	17.018	11.363	16.193
11.149	17.019	11.364	16.194
11.150	17.020	11.365	16.195
11.151	17.021	11.366	16.196
11.152	17.022	11.367	16.197
11.153	17.023	11.368	16.198
11.154	17.024	11.401	17.121
11.155	17.025	11.402	17.122
11.156	17.026	11.403	17.123
11.157	17.027	11.404	17.124
11.158	17.028	11.405	17.125
11.159	17.029	11.406	17.126
11.160	17.030	11.407	17.127
11.161	17.031	11.408	Repealed
11.162	17.032	11.409	17.128
11.163	17.033	11.410	17.129
11.164	17.034	11.411	17.129
11.201	17.071	11.412	17.131
11.202	17.072	11.413	17.132
11.203	17.073	11.414	17.133
11.204	17.074	11.415	17.134
11.205	17.075	11.416	17.135
11.206	17.076	11.417	17.136
11.207	17.077	11.418	17.137
11.208	17.078	11.419	17.138
11.209	17.079	11.420	17.139
11.210	17.080	11.451	16.231, Deleted
11.211	17.081	11.452	16.232, Deleted
11.212	17.082	11.453	16.231
11.213	17.083	11.454	16.232
11.214	17.084	11.455	16.233
11.215	17.085	11.456	16.234
11.216	17.086	11.457	16.235
11.217	17.087	11.458	16.236
11.218	17.088	11.501	16.271
11.251	16.091	11.502	16.272
11.252	16.092	11.503	16.273
11.301	16.131	11.601	17.171
11.302	16.132	11.602	17.172
11.303	16.133	11.603	17.173
11.304	16.134	11.604	17.174

STATE WATER ADMINISTRATION

Former Sections	Revised Sections	Former Sections	Revised Sections
11.605	17.175	21.034	5.178
11.606	17.176	21.035	—
11.607	17.177	21.036	5.052(a)
11.608	17.178	21.037	5.052(b)
11.609	17.179	21.038	5.053
11.610	17.180	21.039	5.055
12.001		21.040	5.054
to		21.061	26.011
12.067	Prec. 12.001 note	21.062	26.012
14.001	18.001	21.063	26.013
14.002	18.002	21.064	26.014
14.011	18.011	21.065	26.015
14.012	18.012	21.066	26.016
14.013	18.013	21.067	26.017
14.014	18.014	21.068	26.018
14.015	18.015	21.069	5.131
14.016	18.016	21.070	26.019
14.017	18.017	21.071	26.0191
14.018	18.018	21.072	26.020
14.019	18.019	21.073	26.021
14.020	18.020	21.074	26.022
14.021	18.021	21.075	26.023
14.022	18.022	21.076	26.024
14.023	—	21.077	26.025
14.041	18.051	21.078	26.026
14.042	18.052	21.079	26.027
14.043	18.053	21.080	26.028
14.044	18.054	21.081	26.029
14.045	18.055	21.082	26.030
14.046	18.056	21.083	26.031
14.061	18.081	21.084	26.032
14.062	18.082	21.085	26.033
14.063	18.083	21.086	26.034
14.064	18.084	21.087	26.035
14.0641	18.0841	21.088	26.036
14.065	18.085	21.089	26.037
14.066	18.086	21.0891	Repealed
14.067	18.087	21.090	26.038
14.068	18.088	21.091	26.039
14.069	18.089	21.092	26.040
14.070	18.090	21.093	26.041
14.071	18.091	21.094	26.042
14.091	18.121	21.095	26.043
14.0911	18.1211	21.096	[Blank]
14.092	18.122	21.097	26.044
14.093	18.123	21.0971	26.045
14.101	18.151	21.098	26.046
14.102	18.152	21.099	[26.047]
14.111	18.171	21.101	[26.048]
14.112	18.172	21.201	26.081
21.001	—	21.202	26.082
21.002	26.003	21.203	26.083
21.003	26.001	21.204	26.084
21.004	26.002	21.2041	26.085
21.005	—	21.205	26.086
21.006	—	21.206	[26.087]
21.021		21.251	26.121
to		21.252	26.122
21.031	—	21.253	26.123
21.032	5.177	21.254	26.124
21.033	5.051	21.255	26.125

WATER CODE

Former Sections	Revised Sections	Former Sections	Revised Sections
21.256	26.126	21.803	26.263
21.257	26.127	21.804	26.264
21.258	26.128	21.805	26.265
21.259	26.129	21.806	26.266
21.260	26.130	21.807	26.267
21.261	26.131	21.808	26.268
21.262	26.132	22.001	27.001
21.263	26.133	22.002	27.002
21.264	26.134, Repealed	22.011	27.011
21.265	26.135	22.012	27.012
21.351	26.171	22.013	27.013
21.352	26.172	22.014	27.014
21.353	26.173	22.015	27.015
21.354	26.174	22.016	27.016
21.355	26.175	22.017	27.017
21.356	26.176	22.018	27.018
21.357	26.177	22.019	27.019
21.451	5.351	22.031	27.031
21.551	26.211	22.032	27.032
21.552	26.212	22.033	27.033
21.553	26.213	22.034	27.034
21.5531	26.214	22.051	27.051
21.554	26.215	22.052	27.052
21.555	26.216	22.053	27.053
21.556	26.217	22.054	27.054
21.557	26.218	22.055	27.055
21.558	26.219	22.056	27.056
21.559	26.220	22.101	27.101
21.560	26.221	22.102	27.102
21.561	26.222	22.103	27.103
21.562	26.223	22.104	27.104
21.563	26.224	23.001	28.001
21.564	26.225	23.002	28.002
21.601		23.003	28.003
to		23.004	28.004
21.610	17.221	24.001	29.001
	to	24.001	29.002
	17.230, Repealed	24.011	29.011
21.611	—	24.012	29.012
21.612		24.013	29.013
to		24.014	29.014
21.617	17.231	24.015	29.015
	to	24.016	29.016
	17.236, Repealed	24.017	29.017
21.701	17.271	24.018	29.018
21.702	17.272	24.019	29.019
21.703	17.273	24.020	29.020
21.704	17.274	24.021	29.021
21.705	17.275	24.031	29.031
21.706	17.276	24.032	29.032
21.707	17.277	24.033	29.033
21.708	17.278	24.041	29.041
21.709	17.279	24.042	29.042
21.710	17.280	24.043	29.043
21.711	17.281	24.044	29.044
21.712	17.282	24.045	29.045
21.713	17.283	24.046	29.046
21.714	—	25.001	30.001
21.715	17.284	25.002	30.002
21.801	26.261	25.003	30.003
21.802	26.262	25.004	30.004

Former Sections	Revised Sections
25.005	30.005
25.021	30.021
25.022	30.022
25.023	30.023
25.024	30.024
25.025	30.025
25.026	30.026
25.027	30.027
25.028	30.028
25.029	30.029
25.030	30.030
25.031	30.031
25.032	30.032
25.033	30.033
25.034	30.034
25.035	30.035
25.051	30.051
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25.064	30.064
25.065	30.065
25.066	30.066
25.101	30.101
25.102	30.102
25.103	30.103
25.104	30.104
25.105	30.105
25.106	30.106

SUBCHAPTER A. GENERAL PROVISIONS

§ 5.001. Definitions

In this chapter:

- (1) "Department" means the Texas Department of Water Resources.
- (2) "Board" means the Texas Water Development Board.
- (3) "Commission" means the Texas Water Commission.
- (4) "Executive director" means the executive director of the Texas Department of Water Resources.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.002. Scope of Chapter

The powers and duties enumerated in this chapter are the general powers and duties of the department and those incidental to the conduct of its business. The department has other specific pow-

ers and duties as prescribed in other sections of this code and other laws of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.003 to 5.010 reserved for expansion]

SUBCHAPTER B. ORGANIZATION OF THE TEXAS DEPARTMENT OF WATER RESOURCES

§ 5.011. Declaration of Policy

The Texas Department of Water Resources is the agency of the state given primary responsibility for implementing the provisions of the constitution and laws of this state relating to water. To assure that fundamental safeguards of the constitution are enjoyed by persons subject to the jurisdiction of the department, this title of the code provides for the formal separation of the legislative, executive, and judicial functions of the department and creates an office of public interest within the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.012. Department as Agency of the State; Division of Department by Functions

(a) The Texas Department of Water Resources is an administrative agency of the state and is responsible for carrying out the legislative, executive, and judicial functions provided in this title and delegated to it by the constitution and other laws of this state.

(b) With respect to the department, the terms "legislative," "executive," and "judicial" mean those functions of the department that most closely resemble the same functions of the three branches of the state government.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.0121. Application of Sunset Act

The Texas Department of Water Resources is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the board is abolished effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1848, ch. 735, § 2.118, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 5.013. Legislative Functions

The legislative functions of the department are vested in the Texas Water Development Board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.014. Executive Functions

(a) The executive functions of the department are vested in the executive director.

(b) The executive director shall employ a deputy director, subject to the approval of the board. In

the absence of the executive director, the deputy director shall assume the executive director's duties and functions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.015. **Judicial Functions**

The judicial functions of the department are vested in the Texas Water Commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.016. **General Duties and Responsibilities; Interpretation**

(a) The board, the executive director, and the commission shall carry out their respective powers and duties as provided by law and in a manner that respects the separation of governmental functions.

(b) The board, commission, or executive director shall act in the name of and for the department, and duly authorized acts of the board, commission, or executive director are to be considered as acts of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.017. **Construction of Title**

This title shall be liberally construed to allow the board, the executive director, and the commission to carry out their powers and duties in a manner that respects the separation of governmental functions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.018. **Purpose of Act**

Consistent with the objectives of the Joint Advisory Committee on Government Operations, the purpose of this Act is to assign the duties, responsibilities, and functions of the Texas Water Quality Board and Texas Water Rights Commission to a new department, and it is not the intention of this Act to make any substantive changes in the laws of the State of Texas.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.019 to 5.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 5.051. **Funds From Other State Agencies**

Any state agency that has statutory responsibilities for water pollution or water quality control and that receives a legislative appropriation for these purposes may transfer to the department any amount mutually agreed on by the department and the agency, subject to the approval of the governor.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.052. **Copies of Documents, Proceedings, Etc.**

(a) Except as otherwise specifically provided in this code and subject to the specific limitations provided in this code, on application of any persons, the department shall furnish certified or other copies of any proceeding or other official record or of any map, paper, or document filed with the board or commission. A certified copy with the seal of the department or commission as appropriate and the signature of the chairman of the board or commission or the executive director or chief clerk of the commission is admissible as evidence in any court or administrative proceeding.

(b) The board shall provide in its rules the fees that will be charged for copies and is authorized to furnish copies, certified or otherwise, to a person without charge when the furnishing of the copies serves a public purpose. Other statutes concerning fees for copies of records do not apply to the department, except that the fees set by the board for copies prepared by the board shall not exceed those prescribed in Article 3913, Revised Civil Statutes of Texas, 1925, as amended.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.053. **Documents, Etc., State Property; Open for Inspection**

Text of section effective until delegation of NPDES permit authority

All information, documents, and data collected by the department in the performance of its duties are the property of the state. Subject to the limitations of Section 26.134 of this code, all records are open to inspection by any person during regular office hours.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 5.053, post

§ 5.053. **Documents, Etc., State Property; Open for Inspection**

Text of section effective upon delegation of NPDES permit authority

All information, documents, and data collected by the department in the performance of its duties are the property of the state. Records, reports, data, or other information obtained relative to or from sources or potential sources of discharges of water pollutants shall be available to the public during regular office hours; except that, if a showing satisfactory to the executive director is made by any person that such records, reports, data, or other information (other than effluent data) would divulge methods or processes entitled to protection as trade secrets, then the department shall consider such records, reports, data, or other information as confi-

dential. Nothing in this chapter shall be construed to make confidential any effluent data, including effluent data in records, reports, or other information, and including effluent data in permits, draft permits, and permit applications. Any records, data, or other information considered confidential may be disclosed or transmitted to officers, employees, or authorized representatives of the State of Texas or of the United States with responsibilities in water pollution control; provided such disclosure or transmittal is made only after adequate written assurance is given to the executive director that the confidentiality of the disclosed or transmitted records, data, or other information will be afforded all reasonable protection allowed by law by the receiving officer, employee or authorized representative on behalf of, and under the authority of, the receiving agency or political entity. The executive director shall not disclose or transmit records, data, or other information considered confidential if he has reason to believe the recipient will not protect their confidentiality to the most reasonable extent provided by law.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective until delegation of NPDES permit authority, see § 5.053, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 5.054. Seal

The department shall have a seal bearing the words "Texas Department of Water Resources" encircling the oak and olive branches common to other official seals.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.055. Reports to Governor

The department shall make biennial reports in writing to the governor and the members of the legislature. Each report shall include a statement of the activities of the board, commission, and executive director and their respective or joint recommendations for necessary and desirable legislation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.056 to 5.090 reserved for expansion]

SUBCHAPTER D. TEXAS WATER DEVELOPMENT BOARD

§ 5.091. State Agency

The Texas Water Development Board is an agency of the state and shall exercise the legislative functions of the department as defined herein.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.0911. Application of Sunset Act

The Texas Water Development Board is subject to the Texas Sunset Act,¹ but it is not abolished under that Act. The board shall be reviewed under the Texas Sunset Act during the period in which state agencies abolished effective September 1 of 1985 and of every 12th year after 1985 are reviewed.

[Acts 1977, 65th Leg., p. 1848, ch. 735, § 2.117, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 5.092. Members of the Board; Appointment

(a) The board is composed of six members who are appointed by the governor with the advice and consent of the senate.

(b) The governor shall make the appointments in such a manner that each member is from a different section of the state and has no conflict of interest prohibited by state or federal law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.093. Officers of State; Oath

Each member of the board is an officer of the state as that term is used in the constitution, and each member shall qualify by taking the official oath of office.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.094. Terms of Office

(a) The members of the board hold office for staggered terms of six years, with the terms of two members expiring every two years. Each member holds office until his successor is appointed and has qualified.

(b) No person appointed to the board may serve for more than two six-year terms.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.095. Board Officers

(a) The governor shall designate one member as chairman of the board to serve at the will of the governor.

(b) The members of the board shall elect a vice-chairman every two years. The board shall fill a vacancy in the office of vice-chairman for the remainder of the unexpired term.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.096. Board Meetings

(a) The board shall meet at least once each month on a day and at a place within the state selected by it, subject to recesses at the discretion of the board. The chairman or two board members may call a

special meeting at any time by giving notice to the other members.

(b) The chairman or in his absence the vice-chairman shall preside at all meetings of the board.

(c) A majority of the members constitute a quorum to transact business.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.097. Compensation; Expenses

A member is entitled to receive an amount as provided in the General Appropriations Act for each day he serves in the performance of his duties, together with travel and other necessary expenses.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.098. Seal

The board shall have a seal bearing the words "Texas Water Development Board" encircling the oak and olive branches common to other official seals.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.099 to 5.130 reserved for expansion]

SUBCHAPTER E. GENERAL POWERS AND DUTIES OF THE BOARD

§ 5.131. Rules

(a) The board shall make any rules necessary to carry out the powers and duties under the provisions of this code and other laws of this state.

(b) The executive director and the commission may recommend to the board for its consideration any rules that they consider necessary.

(c) Rules shall be adopted in the manner provided in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.132. General Policy

The board, in the rules, shall establish and approve all general policy of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.133. Budget Approval

The board shall examine and approve all budget recommendations for the department that are to be transmitted to the legislature. The commission may provide as a supplement to those recommendations statements of particular concern to the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.134. Advisory Councils

The board may create and consult with advisory councils, including councils for the environment, councils for public information, or any other councils which the board may consider appropriate.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.135. Appointment

(a) The board shall appoint an executive director of the department to serve at the will of the board.

(b) The board shall exercise the powers of appointment which the Texas Water Rights Commission had the authority to exercise on August 30, 1977, except for those powers of appointment expressly provided to the Texas Water Rights Commission in Chapters 50 through 63 inclusive, of the Water Code, which are delegated to the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2184, ch. 834, § 1, eff. Aug. 27, 1979.]

[Sections 5.136 to 5.170 reserved for expansion]

SUBCHAPTER F. EXECUTIVE DIRECTOR

§ 5.171. General Responsibilities of the Executive Director

The executive director shall manage the administrative affairs of the department and shall exercise the executive functions of the department, including the execution of the rules, orders, and decisions of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.172. Administrative Organization of Department

The executive director may organize and reorganize the administrative sections and divisions of the department in a manner and in a form that will achieve the greatest efficiency and effectiveness.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.173. Appearances at Hearings

The position of and information developed by the department shall be presented by the executive director or his designated representative at hearings of the board and the commission and at hearings held by federal, state, and local agencies on matters affecting the public's interest in the state's water resources, including matters that have been determined to be policies of the state. The executive director shall be named a party in hearings before the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.174. Contracts

(a) The executive director, on behalf of the department, may negotiate with and with the consent of the board enter into contracts with the United States or any of its agencies for the purpose of carrying out the powers, duties, and responsibilities of the department.

(b) The executive director, on behalf of the department, may negotiate with and with the consent of the board enter into contracts or other agreements with states and political subdivisions of this state or any other entity for the purpose of carrying out the powers, duties, and responsibilities of the department.

(c) The executive director, on behalf of the department, shall obtain the approval of the attorney general as to the legality of a resolution of the board authorizing state ownership in a project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.175. Enforcement

The executive director may enforce the terms and conditions of any permit, certified filing, certificate of adjudication, order, standard, or rule by injunction or other appropriate remedy in a court of competent jurisdiction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.176. Travel Expenses

The executive director shall be entitled to receive actual and necessary travel expenses. Other employees of the department are entitled to receive travel expenses as provided in the General Appropriations Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.177. Employee Moving Expenses

If provided by the legislative appropriation, the department may pay the costs of transporting and delivering the household goods and effects of employees transferred by the executive director from one permanent station to another when, in the judgment of the executive director, the transfer will serve in the best interest of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.178. Gifts and Grants

The executive director may apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out the powers and duties under this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.179. Applications and Other Documents

(a) An application, petition, or other document requiring action of the department shall be presented to the executive director and handled as provided in this code and in the rules of the department.

(b) After an application, petition, or other document is processed requiring action by the commission, it shall be presented to the commission for consideration of filing. If accepted for filing by the commission, if required by law, the commission shall set a hearing date and issue appropriate notice.

(c) After an application is processed requiring action by the board, it shall be presented to the board for action as required by law and the rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.180. Development Fund Manager

The executive director, with the approval of the board, shall appoint the development fund manager who shall perform all duties required of that position by this code and the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.181. Public Interest Office

(a) There is created an office of public interest to insure that the department promotes the public's interest and is responsive to citizens. Public interest includes but is not limited to environmental quality and consumer protection.

(b) The office shall be headed by a public interest advocate appointed by the commission and the board. The executive director may submit the names and qualifications of candidates for public interest advocate to the board and commission. The board and commission shall meet jointly for the purpose of appointing or dismissing the public interest advocate by a majority vote of each body.

(c) The advocate shall represent the public interest and be a party to all proceedings before the department.

(d) The office shall be adequately staffed to carry out its function under this code.

(e) No ruling, decision, or other act of the board or the commission may be appealed by the advocate.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.182. Fees

(a) The executive director shall charge and collect the fees prescribed by this section. The executive director shall make a record of fees prescribed when due and shall render an account to the person charged with the fees. Each fee is a separate charge and is in addition to other fees unless provided otherwise.

(b) Except as specifically provided by this section, the fee for filing an application or petition is \$25 plus the cost of any required notice.

(c) The fee for filing a water permit application is \$75 plus the cost of required notice.

(d) The fee for filing an application for fixing or adjusting rates is \$100 plus the cost of required notice.

(e) The fee for filing a water district creation petition or conversion resolution is \$60 plus the cost of required notice.

(f) The fee for filing a bond issue application is \$100 plus the cost of required notice.

(g) The fee for recording an instrument in the office of the commission is \$1 per page.

(h) The fee for the use of water for irrigation is 50 cents per acre to be irrigated.

(i) The fee for impounding water, except under Section 11.142 of this code, is 50 cents per acre-foot of storage, based on the total holding capacity of the reservoir at normal operating level, provided that no additional fee shall be charged for recreational use for any impoundments of water now or hereafter permitted by the state or exempted from permit by statute.

(j) The fee for other uses of water not specifically named in this section is \$1 per acre-foot, except that no political subdivision may be required to pay fees to use water for recharge of underground freshwater-bearing sands and aquifers or for abatement of natural pollution.

(k) A fee charged under this section for one use of water under a permit from the commission may not exceed \$5,000. The fee for each additional use of water under a permit for which the maximum fee is paid may not exceed \$1,000.

(l) The fees prescribed by Subsections (h) through (j) of this section are one-time fees, payable when the application for an appropriation is made. However, if the total fee for a permit exceeds \$1,000, the applicant shall pay one-tenth of the fee when the application is filed, one-tenth within 30 days after notice is mailed to him that the permit is granted, and the balance before he begins to use water under the permit. If the applicant does not pay all of the amount owed before he begins to use water under the permit, his permit is annulled.

(m) When a permit is annulled, the matter shall revert to the status of a pending, filed application and, upon the payment of use fees as provided by this subsection together with sufficient postage fees for mailing notice of hearing, the commission shall set the application for hearing and proceed as provided by this code.

[Formerly § 12.111, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered § 5.182 and amended by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981. Amended by Acts 1983, 68th Leg., p. 365, ch. 81, § 9(a), eff. Sept. 1, 1983.]

The text for this section incorporates the amendment to former § 6.068 by Acts 1977, 65th Leg., p. 835, ch. 312, § 1.

Sections 2, 3, and 4 (in part) of Acts 1977, 65th Leg., p. 836, ch. 312, provided:

"Sec. 2. (a) All permits issued prior to the effective date of this Act by the Texas Water Rights Commission or its predecessors are validated, ratified, approved, and confirmed insofar as, but only insofar as, the validity and priority of any such permits may be affected by any failure to pay or any failure to pay timely the fees prescribed by applicable statute.

"(b) If the Texas Water Rights Commission determines that any fees prescribed by applicable statute have not been paid in connection with any permit issued prior to the effective date of this Act by the commission or its predecessors, the commission shall submit a written statement of charges to the permittee. If such charges are not paid in full within 30 days of receipt of the statement by the permittee, then this section is not applicable for the validation, ratification, approval, or confirmation of the permit.

"Sec. 3. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 4. Due to the fact that the Texas Water Rights Commission and its predecessor agencies were charged with the responsibility to collect fees for the use and benefit of the state, and failing to do so violated the principles of the Constitution of Texas relating to the alienation and use of property of the public, and placed numerous public agencies, state and federal, in the position of having made substantial investments in major dams and reservoirs without the benefit of a permit, the same having been annulled by operation of law, . . . create an emergency . . ."

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

[Sections 5.183 to 5.220 reserved for expansion]

SUBCHAPTER G. TEXAS WATER COMMISSION

§ 5.221. Creation of Commission

The Texas Water Commission is created as an agency of the state and shall exercise the judicial functions of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.2211. Application of Sunset Act

The Texas Water Commission is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the commission is abolished effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1849, ch. 735, § 2.119, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 5.222. Members of Commission; Appointment

(a) The commission is composed of three members who are appointed by the governor with the advice and consent of the senate.

(b) The governor shall make the appointments in such a manner that each member is from a different section of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.223. Officers of State; Oath

Each member of the commission is an officer of the state as that term is used in the constitution, and each member shall qualify by taking the official oath of office.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.224. Terms of Office

(a) The members of the commission hold office for staggered terms of six years, with the terms of one member expiring every two years. Each member holds office until his successor is appointed and has qualified.

(b) No person appointed to the commission may serve for more than two six-year terms.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.225. Full-Time Service

Each member of the commission shall serve on a full-time basis.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.226. Officers; Meetings

(a) The governor shall designate the chairman of the commission. He shall serve as chairman until the governor designates a different chairman.

(b) The chairman may designate another commissioner to act for him in his absence.

(c) The chairman shall preside at the meetings and hearings of the commission.

(d) The commission shall hold regular meetings and all hearings at times specified by a commission order and entered in its minutes. The commission may hold special meetings at the times and places in the state that the commission decides are appropriate for the performance of its duties. The chairman or acting chairman shall give the other members reasonable notice before holding a special meeting.

(e) A majority of the commission is a quorum.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.227. Chief Clerk

(a) The commission shall employ a chief clerk who shall assist the commission in carrying out its duties under this code.

(b) The chief clerk shall issue notice of public hearings held under the authority of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.228 to 5.260 reserved for expansion]

SUBCHAPTER H. GENERAL POWERS AND DUTIES OF THE COMMISSION**§ 5.261. Scope of Subchapter**

The powers and duties enumerated in this subchapter are the general powers and duties of the commission and those incidental to the conduct of its business. The commission has other specific powers and duties as prescribed in other sections of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.262. Rules

(a) The commission shall adopt reasonable procedural rules to be followed in a commission hearing.

(b) Rules shall be adopted in the manner provided in the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.263. Applications and Other Documents

Applications and other documents to be filed with the commission for final action under this code shall be filed with the executive director and handled in the manner provided in this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.264. Hearings; Recess, Etc.

The commission may recess any hearing or examination from time to time and from place to place.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.265. Power to Administer Oaths

Each member of the commission, the chief clerk, or a hearing examiner may administer oaths in any hearing or examination on any matter submitted to the commission for action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.266. Seal

The commission shall adopt an official seal.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.267. Commission to be Knowledgeable

The commission shall be knowledgeable of the water courses of the state and of the needs of the state concerning the use, storage, and conservation of water and of the need to maintain the quality of water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.268. Conservation and Quality of Water

The commission shall administer the law so as to promote the judicious use and the maximum conservation and protection of quality of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.269 to 5.310 reserved for expansion]

SUBCHAPTER I. OFFICE OF HEARING EXAMINERS

§ 5.311. Creation of Office

Within the commission there is created an office of hearing examiners to assist the commission in carrying out its powers and duties under this code. The office of hearing examiners is independent of the board, the executive director, and the divisions of the board and is under the exclusive control of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.312. Organization of Office of Hearing Examiners

(a) The office of hearing examiners shall be under the direction of the chief hearing examiner.

(b) The chief hearing examiner and all assistant hearing examiners employed in the office of hearing examiners shall be attorneys licensed to practice law in this state and shall be employed by the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.313. Delegation of Responsibility

(a) The commission may delegate to a hearing examiner the responsibility to hear any matter before the commission.

(b) A hearing examiner shall prepare for and hold any hearing as directed by the commission and shall report to the commission on the hearing in the manner provided by law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 5.314 to 5.350 reserved for expansion]

SUBCHAPTER J. JUDICIAL REVIEW

§ 5.351. Judicial Review of Department Acts

(a) A person affected by a ruling, order, decision, or other act of the department may file a petition to review, set aside, modify, or suspend the act of the department.

(b) A person affected by a ruling, order, or decision of the department must file his petition within 30 days after the effective date of the ruling, order, or decision. A person affected by an act other than a ruling, order, or decision must file his petition

within 30 days after the date the department performed the act.

(c) Orders, decisions, or other actions of the board pursuant to Subchapters E and F of Chapter 16¹ and Chapter 17 of this code are not subject to appeal.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Sections 16.131 et seq., 16.181 et seq.

§ 5.352. Remedy for Executive Director, Commission, or Board Inaction

A person affected by the failure of the executive director, commission, or board to act in a reasonable time on an application to appropriate water or to perform any other duty with reasonable promptness may file a petition to compel the executive director, commission, or board to show cause why it should not be directed by the court to take immediate action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.353. Diligent Prosecution of Suit

The plaintiff shall prosecute with reasonable diligence any suit brought under Section 5.351 or 5.352 of this code. If the plaintiff does not secure proper service of process or does not prosecute his suit within one year after it is filed, the court shall presume that the suit has been abandoned. The court shall dismiss the suit on a motion for dismissal made by the attorney general unless the plaintiff after receiving due notice can show good and sufficient cause for the delay.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.354. Venue

A suit instituted under Section 5.351 or 5.352 of this code must be brought in the district court of Travis County.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.355. Appeal of District Court Judgment

A judgment or order of a district court in a suit brought for or against the department is appealable as are other civil cases in which the district court has original jurisdiction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.356. Appeal by Executive Precluded

No ruling, order, decision, or other act of the board or the commission may be appealed by the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 5.357. Law Suits; Citation

Law suits filed by and against the board, commission, or executive director shall be in the name of the department. In suits against the department, board, commission, or executive director, citation may be served on the executive director or deputy director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Chapters 6 to 10 reserved for expansion]

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. GENERAL PROVISIONS

§ 11.001. Vested Rights Not Affected

(a) Nothing in this code affects vested private rights to the use of water, except to the extent that provisions of Subchapter G of this chapter might affect these rights.

(b) This code does not recognize any riparian right in the owner of any land the title to which passed out of the State of Texas after July 1, 1895.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.002. Definitions

In this chapter and in Chapter 12 of this code:

(1) "Commission" means the Texas Water Commission.

(2) "Board" means the Texas Water Development Board.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Beneficial use" means use of the amount of water which is economically necessary for a purpose authorized by this chapter, when reasonable intelligence and reasonable diligence are used in applying the water to that purpose.

(6) "Water right" means a right acquired under the laws of this state to impound, divert, or use state water.

(7) "Appropriator" means a person who has made beneficial use of any water in a lawful manner under the provisions of any act of the legislature before the enactment of Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended, and who has filed with the State Board of Water Engineers a record of his appropriation as required by the 1913 Act, as amended, or a person who makes or has made beneficial use of any water within the limitations of a permit lawfully issued by the commission or one of its predecessors.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.003. Streams That Form Boundaries Included

This chapter applies to all streams or other sources of water supply lying upon or forming a part of the boundaries of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.004. Department to Receive Certified Copies of Judgments, Etc.

When any court of record renders a judgment, decree, or order affecting the title to any water right, claim, appropriation, or irrigation facility or affecting any matter over which the department is given supervision by law, the clerk of the court shall immediately transmit to the department a certified copy of the judgment, decree, or order.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.005. Applicability to Works Under Federal Reclamation Act

This chapter applies to the construction, maintenance, and operation of irrigation works constructed in this state under the federal reclamation act, as amended (43 U.S.C. Sec. 371 et seq.), to the extent that this chapter is not inconsistent with the federal act or the regulations made under that act by the secretary of the interior.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.006 to 11.020 reserved for expansion]

SUBCHAPTER B. RIGHTS IN STATE WATER

§ 11.021. State Water

(a) The water of the ordinary flow, underflow, and tides of every flowing river, natural stream, and lake, and of every bay or arm of the Gulf of Mexico, and the storm water, floodwater, and rainwater of every river, natural stream, canyon, ravine, depression, and watershed in the state is the property of the state.

(b) Water imported from any source outside the boundaries of the state for use in the state and which is transported through the beds and banks of any navigable stream within the state or by utilizing any facilities owned or operated by the state is the property of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.022. Acquisition of Right to Use State Water

The right to the use of state water may be acquired by appropriation in the manner and for the purposes provided in this chapter. When the right to use state water is lawfully acquired, it may be taken or diverted from its natural channel.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.023. Purposes for Which Water May be Appropriated

(a) State water may be appropriated, stored, or diverted for:

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals;

(2) industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

- (3) irrigation;
- (4) mining and recovery of minerals;
- (5) hydroelectric power;
- (6) navigation;
- (7) recreation and pleasure;
- (8) stock raising;
- (9) public parks; and
- (10) game preserves.

(b) State water also may be appropriated, stored, or diverted for any other beneficial use.

(c) Unappropriated storm water and floodwater may be appropriated to recharge underground freshwater bearing sands and aquifers in the portion of the Edwards underground reservoir located within Kinney, Uvalde, Medina, Bexar, Comal, and Hays counties if it can be established by expert testimony that an unreasonable loss of state water will not occur and that the water can be withdrawn at a later time for application to a beneficial use. The normal or ordinary flow of a stream or watercourse may never be appropriated, diverted, or used by a permittee for this recharge purpose.

(d) When it is put or allowed to sink into the ground, water appropriated under Subsection (c) of this section loses its character and classification as storm water or floodwater and is considered percolating groundwater.

(e) The amount of water appropriated for each purpose mentioned in this section shall be specifically appropriated for that purpose, subject to the preferences prescribed in Section 11.024 of this code.

(f) The water of any arm, inlet, or bay of the Gulf of Mexico may be changed from salt water to sweet or fresh water and held or stored by dams, dikes, or other structures and may be taken or diverted for any purpose authorized by this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 5.023 by Acts 1977, 65th Leg., p. 249, ch. 116, § 1.

§ 11.024. Appropriation: Preferences

In order to conserve and properly utilize state water, the public welfare requires not only recognition of beneficial uses but also a constructive public policy regarding the preferences between these uses, and it is therefore declared to be the public policy of this state that in appropriating state water preference shall be given to the following uses in the order named:

- (1) domestic and municipal uses, including water for sustaining human life and the life of domestic animals, it being the public policy of the state and for the benefit of the greatest number

of people that in the appropriation of water as herein defined, the appropriation of water for domestic and municipal uses shall be and remain superior to the rights of the state to appropriate the same for all other purposes;

(2) industrial uses, meaning processes designed to convert materials of a lower order of value into forms having greater usability and commercial value, including the development of power by means other than hydroelectric;

(3) irrigation;

(4) mining and recovery of minerals;

(5) hydroelectric power;

(6) navigation;

(7) recreation and pleasure; and

(8) other beneficial uses.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 5460, ch. 1026, § 1, eff. Aug. 29, 1983.]

§ 11.025. Scope of Appropriative Right

A right to use state water under a permit or a certified filing is limited not only to the amount specifically appropriated but also to the amount which is being or can be beneficially used for the purposes specified in the appropriation, and all water not so used is considered not appropriated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.026. Perfection of an Appropriation

No right to appropriate water is perfected unless the water has been beneficially used for a purpose stated in the original declaration of intention to appropriate water or stated in a permit issued by the commission or one of its predecessors.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.027. Rights Between Appropriators

As between appropriators, the first in time is the first in right.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.028. Exception

Any appropriation made after May 17, 1931, for any purpose other than domestic or municipal use is subject to the right of any city or town to make further appropriations of the water for domestic or municipal use without paying for the water. However, this section does not apply to any stream which constitutes or defines the international boundary between the United States of America and the Republic of Mexico.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.029. Title to Appropriation by Limitation

When an appropriator from a source of water supply has used water under the terms of a certified filing or a permit for a period of three years, he acquires title to his appropriation by limitation against any other claimant of water from the same source of water supply and against any riparian owner on the same source of water supply.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.030. Forfeiture of Appropriation

If any lawful appropriation or use of state water is wilfully abandoned during any three successive years, the right to use the water is forfeited and the water is again subject to appropriation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.031. Annual Report

(a) Not later than March 1 of every year, every person who takes water during the preceding calendar year from a stream or reservoir shall submit a written report to the department on a form prescribed by the department. The report shall contain all information required by the department to aid in administering the water law and in making inventory of the state's water resources. However, with the exception of public utilities and political subdivisions which furnish water for municipal uses, no report is required of persons who take water solely for domestic or livestock purposes.

(b) A person who fails to file an annual report with the department as required by this section is liable to a penalty of \$25, plus \$1 per day for each day he fails to file the statement after March 1. However, the maximum penalty under this section is \$150. The state may sue to recover the penalty.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.032. Records

(a) A person who owns and operates a system of waterworks used for a purpose authorized by this code shall keep a detailed record of daily operations so that the quantity of water taken or diverted each calendar year can be determined.

(b) If the water is used for irrigation, the record must show the number of acres irrigated, the character of the crops grown, and the yield per acre. No survey is required to determine the exact number of acres irrigated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.033. Eminent Domain

The right to take water necessary for domestic and municipal supply purposes is primary and fundamental, and the right to recover from other uses water which is essential to domestic and municipal

supply purposes is paramount and unquestioned in the policy of the state. All political subdivisions of the state and constitutional governmental agencies exercising delegated legislative powers have the power of eminent domain to be exercised as provided by law for domestic, municipal, and manufacturing uses and for other purposes authorized by this code, including the irrigation of land for all requirements of agricultural employment.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.034. Reservoir Site: Land and Rights-of-Way

An appropriator who is authorized to construct a dam or reservoir is granted the right-of-way, not to exceed 100 feet wide, and the necessary area for the site, over any public school land, university land, or asylum land of this state and the use of the rock, gravel, and timber on the site and right-of-way for construction purposes, after paying compensation as determined by the commission. An appropriator may acquire the reservoir site and rights-of-way over private land by contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.035. Condemnation of Private Property

(a) An appropriator may obtain rights-of-way over private land and may obtain the land necessary for pumping plants, intakes, headgates, and storage reservoirs by condemnation.

(b) The party obtaining private property by condemnation shall cause damages to be assessed and paid for as provided by the statutes of this state relating to eminent domain.

(c) If the party exercising the power granted by this section is not a corporation, district, city, or town, he shall apply to the department for the condemnation.

(d) The executive director shall have the proposed condemnation investigated. After the investigation, the commission may give notice to the party owning the land proposed to be condemned and hold a hearing on the proposed condemnation.

(e) If after a hearing the commission determines that the condemnation is necessary, the executive director may institute condemnation proceedings in the name of the State of Texas for the use and benefit of the party who applied for the condemnation and all others similarly situated.

(f) The parties at whose instance a condemnation suit is instituted shall pay the costs of the suit and condemnation in proportion to the benefits received by each party as fixed by the commission. Before using any of the condemned rights or property, a party receiving the rights or property shall pay the amount of costs fixed by the commission.

(g) If, after the costs of the condemnation proceedings have been paid, a party seeks to take the

benefits of the condemnation proceedings, he shall apply to the department for the benefits. The commission may grant the application and fix the fees and charges to be paid by the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.036. Conserved or Stored Water: Supply Contract

(a) A person, association of persons, corporation, or water improvement or irrigation district having in possession and control any storm water, floodwater, or rainwater that is conserved or stored as authorized by this chapter may contract to supply the water to any person, association of persons, corporation, or water improvement or irrigation district having the right to acquire use of the water.

(b) The price and terms of the contract shall be just and reasonable and without discrimination, and the contract is subject to the same revision and control as provided in this code for other water rates and charges. If any person uses the stored or conserved water without first entering into a contract with the party that conserved or stored it, the user shall pay for the use at a rate determined by the commission to be just and reasonable, subject to court review as in other cases.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.037. Water Suppliers: Rules and Regulations

Every person, association of persons, corporation, or irrigation district conserving or supplying water for any of the purposes authorized by this chapter shall make and publish reasonable rules and regulations relating to:

- (1) the method of supply;
- (2) the use and distribution of the water; and
- (3) the procedure for applying for the water and paying for it.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.038. Rights of Owners of Land Adjoining Canal, Etc.

(a) A person who owns or holds a possessory interest in land adjoining or contiguous to a canal, ditch, flume, lateral, dam, reservoir, or lake constructed and maintained under the provisions of this chapter and who has secured a right to the use of water in the canal, ditch, flume, lateral, dam, reservoir, or lake is entitled to be supplied from the canal, ditch, flume, lateral, dam, reservoir, or lake with water for irrigation of the land and for mining, milling, manufacturing, development of power, and stock raising, in accordance with the terms of his contract.

(b) If the person, association of persons, or corporation owning or controlling the water and the person who owns or holds a possessory interest in

the adjoining land cannot agree on a price for a permanent water right or for the use of enough water for irrigation of the person's land or for mining, milling, manufacturing, development of power, or stock raising, then the party owning or controlling the water, if he has any water not contracted to others, shall furnish the water necessary for these purposes at reasonable and nondiscriminatory prices.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.039. Distribution of Water During Shortage

(a) If a shortage of water in a water supply results from drouth, accident, or other cause, the water to be distributed shall be divided among all customers pro rata, according to the amount each may be entitled to, so that preference is given to one and everyone suffers alike.

(b) Nothing in Subsection (a) of this section precludes the person, association of persons, or corporation owning or controlling the water from supplying water to a person who has a prior vested right to the water under the laws of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.040. Permanent Water Right

(a) A permanent water right is an easement and passes with the title to land.

(b) A written instrument conveying a permanent water right may be recorded in the same manner as any other instrument relating to a conveyance of land.

(c) The owner of a permanent water right is entitled to use water according to the terms of his contract. If there is no contract, the owner is entitled to use water at a just, reasonable, and nondiscriminatory price.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.041. Denial of Water: Complaint

(a) Any person entitled to receive or use water from any canal, ditch, flume, lateral, dam, reservoir, or lake or from any conserved or stored supply may present to the department a written petition showing:

- (1) that he is entitled to receive or use the water;
- (2) that he is willing and able to pay a just and reasonable price for the water;
- (3) that the party owning or controlling the water supply has water not contracted to others and available for the petitioner's use; and
- (4) that the party owning or controlling the water supply fails or refuses to supply the available water to the petitioner, or that the price or rental demanded for the available water is not reasonable and just or is discriminatory.

(b) If the petition is accompanied by a deposit of \$25, the executive director shall have a preliminary investigation of the complaint made and determine whether or not there are probable grounds for the complaint.

(c) If, after preliminary investigation, the executive director determines that probable grounds exist for the complaint, the commission shall enter an order setting a time and place for a hearing on the petition.

(d) The commission may require the complainant to make an additional deposit or execute a bond satisfactory to the commission in an amount fixed by the commission conditioned on the payment of all costs of the proceeding.

(e) At least 20 days before the date set for the hearing, the commission shall transmit by registered mail a certified copy of the petition and a certified copy of the hearing order to the person against whom the complaint is made.

(f) The commission shall hold a hearing on the complaint at the time and place stated in the order. It may hear evidence orally or by affidavit in support of or against the complaint, and it may hear arguments. On completion of the hearing, the commission shall render a written decision.

(g) If, after the preliminary investigation, the executive director determines that no probable grounds exist for the complaint, the executive director shall dismiss the complaint. The department may either return the deposit or pay it into the State Treasury.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.042. Delivering Water Down Banks and Beds

Under rules prescribed by the board, a person, association of persons, corporation, or water improvement or irrigation district supplying stored or conserved water under contract as provided in this chapter may use the bank and bed of any flowing natural stream in the state to convey the water from the place of storage to the place of use or to the diversion plant of the appropriator. The board shall prescribe rules for this purpose.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.043. Recordation of Conveyance of Irrigation Work

(a) A conveyance of a ditch, canal, or reservoir or other irrigation work or an interest in such an irrigation work must be executed and acknowledged in the same manner as a conveyance of real estate. Such a conveyance must be recorded in the deed records of the county in which the ditch, canal, or reservoir is located.

(b) If a conveyance of property covered by Subsection (a) of this section is not made in the pre-

scribed manner, it is null and void against subsequent purchasers in good faith and for valuable consideration.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.044. Roads and Highways

(a) An appropriator has the right to construct ditches, canals, or pipelines along or across all roads and highways necessary for the construction of waterworks. Bridges, culverts, or siphons shall be constructed at all road and highway crossings as necessary to prevent any impairment of the uses of the road or highway. Approval of the construction plans and specifications shall be obtained from the owner of the road or highway prior to the installation of conveyance facilities.

(b) If any public road, highway, or public bridge is located on the ground necessary for a damsite, reservoir, or lake, the commissioners court shall change the road and remove the bridge so that it does not interfere with the construction of the proposed dam, reservoir, or lake. The party desiring to construct the dam, reservoir, or lake shall pay the expense of moving the bridge or roadway.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 939, ch. 353, § 1, eff. Aug. 31, 1981.]

Acts 1981, 67th Leg., p. 939, ch. 353, § 1, purported to amend § 5.044 which became § 11.044 in the revision of Title 2 by Acts 1977, 65th Leg., p. 2207, ch. 870. The text set out above incorporates the 1981 amendment.

§ 11.045. Ditches and Canals

An appropriator is entitled to construct ditches and canals along or across any stream of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.046. Return Unused Water

A person who takes or diverts water from a running stream for the purposes authorized by this code shall conduct surplus water back to the stream from which it was taken if the water can be returned by gravity flow and it is reasonably practicable to do so.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.047. Failure to Fence

If a person, association of persons, corporation, or water improvement or irrigation district that owns or controls a ditch, canal, reservoir, dam, or lake does not keep it securely fenced, there is no cause of action against the owner of livestock that trespass.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.048. Cost of Maintaining Irrigation Ditch

(a) If an irrigation ditch is owned or used by two or more persons, mutual or cooperative companies, or corporations, each party who has an interest in the ditch shall pay his proportionate share of the cost of operating and maintaining the ditch.

(b) If a person who owns a joint interest in a ditch refuses to do or to pay for his proportionate share of the work that is reasonably necessary for the proper maintenance and operation of the ditch, the other owners may, after giving him 10 days written notice, proceed themselves to do his share of the necessary work and recover from him the reasonable expense or value of the work or labor performed. The action for the cost of the work may be brought in any court having jurisdiction over the amount in controversy.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.049. Examination and Survey

A person may make any necessary examination and survey in order to select the most advantageous sites for a reservoir and rights-of-way to be used for any of the purposes authorized by this chapter, and for this purpose a person may enter the land or water of any other person.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.050. Tidewater Gates, Etc.

(a) An appropriator authorized to take water for irrigation, subject to the laws of the United States and the regulations made under its authority, may construct gates or breakwaters, dams, or dikes with gates, in waters wholly in this state, as necessary to prevent pollution of the fresh water of any river, bayou, or stream due to the ebb and flow of the tides of the Gulf of Mexico.

(b) The work shall be done in such a manner that navigation of vessels on the stream is not obstructed, and where any gate is used, the appropriator shall at all times keep a competent person at the gate to allow free navigation.

(c) A dam, dike, or breakwater constructed under this section may not be placed at any point except where Gulf tides ebb and flow and may not be constructed so as to obstruct the flow of fresh water to any appropriator or riparian owner downstream.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.051. Irrigation: Lien on Crops

(a) A person who constructs a ditch, canal, dam, lake, or reservoir for the purpose of irrigation and who leases, rents, furnishes, or supplies water to any person for irrigation, with or without a contract, has a preference lien superior to every other lien on the irrigated crops. However, when any

irrigation district or conservation and reclamation district obtains a water supply under contract with the United States, the board of directors of the district, by resolution entered in its minutes, with the consent of the secretary of the interior, may waive the preference lien in whole or in part.

(b) To enforce the lien, the lienholder has all the rights and remedies prescribed by Articles 5222 through 5239, Revised Civil Statutes of Texas, 1925.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.052. Activities Under the Federal Reclamation Act

The Secretary of the Interior of the United States is authorized to conduct any activities in this state necessary to perform his duties under the federal reclamation act, as amended (43 U.S.C. Section 371 et seq.).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.053 to 11.080 reserved for expansion]

**SUBCHAPTER C. UNLAWFUL USE,
DIVERSION, WASTE, ETC.**

§ 11.081. Unlawful Use of State Water

(a) No person may wilfully take, divert, or appropriate any state water for any purpose without first complying with all applicable requirements of this chapter.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to take, divert, or appropriate water in violation of this section.

(d) Possession of state water when the right to its use has not been acquired according to the provisions of this chapter is prima facie evidence of a violation of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.082. Unlawful Use: Civil Penalty

(a) A person who wilfully takes, diverts, or appropriates state water without complying with the applicable requirements of this chapter is also liable to a civil penalty of not more than \$1,000 for each day he continues the taking, diversion, or appropriation.

(b) The state may recover the penalties prescribed in Subsection (a) of this section by suit brought for that purpose in a court of competent jurisdiction.

(c) An action to collect the penalty provided in this section must be brought within two years from the date of the alleged violation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.083. Other Unlawful Taking

(a) No person may wilfully open, close, change, or interfere with any headgate or water box without lawful authority.

(b) No person may wilfully use water or conduct water through his ditch or upon his land unless he is entitled to do so.

(c) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than six months.

(d) The possession or use of water on his land by a person not entitled to the water by the provisions of this code is prima facie evidence of a violation of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.084. Sale of Permanent Water Right Without a Permit

(a) No person may sell or offer to sell a permanent water right unless he has perfected a right to appropriate state water by a certified filing, or unless he has obtained a permit from the commission, authorizing the use of the water for the purposes for which the permanent water right is conveyed.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.085. Interwatershed Transfers

(a) No person may take or divert any of the water of the ordinary flow, underflow, or storm flow of any stream, watercourse, or watershed in this state into any other natural stream, watercourse, or watershed to the prejudice of any person or property situated within the watershed from which the water is proposed to be taken or diverted.

(b) No person may transfer water from one watershed to another without first applying for and receiving a permit from the commission to do so. Before issuing such a permit, the commission shall hold a hearing to determine the rights that might be affected by the transfer. The commission shall give notice and hold the hearing in the manner prescribed by its procedural rules.

(c) A person who takes or diverts water in violation of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$500 or by confinement in the county jail for not more than six months.

(d) A person commits a separate offense each day he continues to take or divert water in violation of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.086. Overflow Caused by Diversion of Water

(a) No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded.

(b) A person whose property is injured by an overflow of water caused by an unlawful diversion or impounding has remedies at law and in equity and may recover damages occasioned by the overflow.

(c) The prohibition of Subsection (a) of this section does not in any way affect the construction and maintenance of levees and other improvements to control floods, overflows, and freshets in rivers, creeks, and streams or the construction of canals for conveying water for irrigation or other purposes authorized by this code. However, this subsection does not authorize any person to construct a canal, lateral canal, or ditch that obstructs a river, creek, bayou, gully, slough, ditch, or other well-defined natural drainage.

(d) Where gullies or sloughs have cut away or intersected the banks of a river or creek to allow floodwaters from the river or creek to overflow the land nearby, the owner of the flooded land may fill the mouth of the gullies or sloughs up to the height of the adjoining banks of the river or creek without liability to other property owners.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.087. Diversion of Water on International Stream

(a) When storm water or floodwater is released from a dam or reservoir on an international stream and the water is designated for use or storage downstream by a specified user who is legally entitled to receive it, no other person may store, divert, appropriate, or use the water or interfere with its passage downstream.

(b) The board may make and enforce rules and orders to implement the provisions of this section, including rules and orders designed to:

- (1) establish an orderly system for water releases and diversions in order to protect vested rights and to avoid the loss of released water;

(2) prescribe the time that releases of water may begin and end;

(3) determine the proportionate quantities of the released water in transit and the water that would have been flowing in the stream without the addition of the released water;

(4) require each owner or operator of a dam or reservoir on the stream between the point of release and the point of destination to allow free passage of the released water in transit; and

(5) establish other requirements the board considers necessary to effectuate the purposes of this section.

(c) Orders made by the commission to effectuate the board's regulations under this section need not be published, but the commission shall transmit a copy of every such order by certified mail to each diverter of water and to each reservoir owner on the stream between the point of release and the point of destination of the released water as shown by the records of the department.

(d) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both. A person commits a separate offense each day he continues to violate this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.0871. Temporary Diversion of Water on International Stream

(a) The commission may authorize, under conditions stated in an order, a watermaster to provide for the temporary diversion and use by holders of water rights of storm water or floodwater that spills from dams and reservoirs on an international stream and otherwise would flow into the Gulf of Mexico without opportunity for beneficial use.

(b) In an order made by the commission under this section, the commission may not discriminate between holders of water rights from an international stream except to the extent necessary to protect the holders of water rights from the same source of supply.

(c) The commission shall give notice by mail to holders of water rights from an international stream and shall hold an evidentiary hearing before entry of an order under this section.

[Acts 1981, 67th Leg., p. 293, ch. 117, § 1, eff. May 13, 1981.]

§ 11.088. Destruction of Waterworks

(a) No person may wilfully cut, dig, break down, destroy, or injure or open a gate, bank, embankment, or side of any ditch, canal, reservoir, flume, tunnel or feeder, pump or machinery, building, structure, or other work which is the property of another, or in which another owns an interest, or which is lawfully possessed or being used by another.

er, and which is used for irrigation, milling, mining, manufacturing, the development of power, domestic purposes, or stock raising, with intent to:

- (1) maliciously injure a person, association, corporation, water improvement or irrigation district;
- (2) gain advantage for himself; or
- (3) take or steal water or cause water to run out or waste out of the ditch, canal, or reservoir, feeder, or flume for his own advantage or to the injury of a person lawfully entitled to the use of the water or the use or management of the ditch, canal, tunnel, reservoir, feeder, flume, machine, structure, or other irrigation work.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$1,000 or by confinement in the county jail for not more than two years or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.089. Johnson Grass or Russian Thistle

(a) No person who owns, leases, or operates a ditch, canal, or reservoir or who cultivates land abutting a reservoir, ditch, flume, canal, wasteway, or lateral may permit Johnson grass or Russian thistle to go to seed on the waterway within 10 feet of the high-water line if the waterway crosses or lies on the land owned or controlled by him.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$500 or by confinement in the county jail for not less than 30 days nor more than six months or by both.

(c) The provisions of this section are not applicable in Tom Green, Sterling, Irion, Schleicher, McCullough, Brewster, Menard, Maverick, Kinney, Val Verde, and San Saba counties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.090. Polluting and Littering

(a) No person may deposit in any canal, lateral, reservoir, or lake, used for a purpose named in this chapter, the carcass of any dead animal, tin cans, discarded buckets or pails, garbage, ashes, bailing or barbed wire, earth, offal, or refuse of any character or any other article which might pollute the water or obstruct the flow of a canal or similar structure.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$100 or by confinement in the county jail for not more than six months or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.091. Interference With Delivery of Water Under Contract

(a) No person may wilfully take, divert, appropriate, or interfere with the delivery of conserved or stored water under Section 11.042 of this code.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than six months or by both.

(c) A person commits a separate offense each day he continues to violate this section.

(d) On the petition of any interested party, the district court of any county through which the water may pass shall enjoin any actual or threatened act prohibited by this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.092. Wasteful Use of Water

A person who owns or has a possessory right to land contiguous to a canal or irrigation system and who acquires the right by contract to use the water from it commits waste if he:

- (1) permits the excessive or wasteful use of water by any of his agents or employees; or
- (2) permits the water to be applied to anything but a beneficial use.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.093. Abatement of Waste as Public Nuisance

(a) A person who permits an unreasonable loss of water through faulty design or negligent operation of any waterworks using water for a purpose named in this chapter commits waste, and the commission may declare the works causing the waste to be a public nuisance. The commission may take the necessary action to abate the nuisance. Also, any person who may be injured by the waste may sue in the district court having jurisdiction over the works causing the waste to have the operation of the works abated as a public nuisance.

(b) In case of a wasteful use of water defined by Section 11.092 of this code, the commission shall declare the use to be a public nuisance and shall act to abate the nuisance by directing the person supplying the water to close the water gates of the person wasting the water and to keep them closed until the commission determines that the unlawful use of water is corrected.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.094. Penalty for Use of Works Declared Public Nuisance

(a) No person may operate or attempt to operate any waterworks or irrigation system or use any water under contract with any waterworks or irri-

gation system that has been previously declared to be a public nuisance.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$1,000 or by confinement in the county jail for not more than one year or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.095. Penalty for Waste

A person who wilfully or knowingly commits waste as provided in Section 11.092 or 11.093(a) of this code is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$500 or by confinement in the county jail for not more than 90 days or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.096. Obstruction of Navigable Streams

(a) No person may obstruct the navigation of any stream which can be navigated by steamboats, keelboats, or flatboats by cutting and felling trees or by building on or across the stream any dike, milldam, bridge, or other obstruction.

(b) A person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$500.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.097 to 11.120 reserved for expansion]

SUBCHAPTER D. PERMITS TO USE STATE WATER

§ 11.121. Permit Required

Except as provided in Section 11.142 of this code, no person may appropriate any state water or begin construction of any work designed for the storage, taking, or diversion of water without first obtaining a permit from the commission to make the appropriation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.122. Amendments to Water Rights Required

(a) All holders of permits, certified filings, and certificates of adjudication issued under Section 11.323 of this code shall obtain from the commission authority to change the place of use, purpose of use, point of diversion, rate of diversion, acreage to be irrigated, or otherwise alter a water right.

(b) The board shall adopt rules to effectuate the provisions of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.123. Permit Preferences

The commission shall give preference to applications in the order declared in Section 11.024 of this code and to applications which will effectuate the maximum utilization of water and are calculated to prevent the escape of water without contribution to a beneficial public service.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.124. Application for Permit

(a) An application to appropriate unappropriated state water must:

- (1) be in writing and sworn to;
- (2) contain the name and post-office address of the applicant;
- (3) identify the source of water supply;
- (4) state the nature and purposes of the proposed use and the amount of water to be used for each purpose;
- (5) state the location and describe the proposed facilities;
- (6) state the time within which the proposed construction is to begin; and
- (7) state the time required for the application of water to the proposed use.

(b) If the proposed use is irrigation, the application must also contain:

- (1) a description of the land proposed to be irrigated; and
- (2) an estimate of the total acreage to be irrigated.

(c) If the application is for a seasonal permit, under the provisions of Section 11.137 of this code, the application must also state the months or seasons of the year the water is to be used.

(d) If the application is for a temporary permit under the provisions of Section 11.138 of this code, the application must also state the period of the proposed temporary use.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.125. Map or Plat

(a) The application must be accompanied by a map or plat drawn on tracing linen on a scale not less than one inch equals 2,000 feet.

(b) The map or plat must show substantially:

- (1) the location and extent of the proposed facilities;
- (2) the location of the headgate, intake, pumping plant, or point of diversion by course and distance from permanent natural objects or landmarks;
- (3) the location of the main ditch or canal and the locations of the laterals or branches of the main ditch or canal;
- (4) the course of the water supply;

(5) the position, waterline, and area of all lakes, reservoirs, or basins intended to be used or created;

(6) the point of intersection of the proposed facilities with any other ditch, canal, lateral, lake, or reservoir; and

(7) the location of any ditch, canal, lateral, reservoir, lake, dam, or other similar facility already existing in the area, drawn in a different colored ink than that used to represent the proposed facilities, and the name of the owner of the existing facility.

(c) The map or plat must also contain:

(1) the name of the proposed facility or enterprise;

(2) the name of the applicant; and

(3) a certificate of the surveyor, giving the date of his survey, his name and post-office address, and the date of the application which the certificate accompanies.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.126. Department Requirements

(a) If the proposed taking or diversion of water for irrigation exceeds nine cubic feet per second, the executive director may require additional information as prescribed by this section.

(b) The executive director may require a continuous longitudinal profile, cross sections of the proposed channel, and the detail plans of any proposed structure, on any scales and with any definition the executive director considers necessary or expedient.

(c) If the application proposes construction of a dam greater than six feet in height either for diversion or storage, the executive director may also require filing a copy of all plans and specifications and a copy of the engineer's field notes of any survey of the lake or reservoir. No work on the project shall proceed until approval of the plans is obtained from the executive director.

(d) If the applicant is a corporation, the commission may require filing a certified copy of its articles of incorporation, a statement of the names and addresses of its directors and officers, and a statement of the amount of its authorized capital stock and its paid-up capital stock.

(e) If the applicant is not a corporation, the commission may require filing a sworn statement showing the name and address of each person interested in the appropriation, the extent of his interest, and his financial condition.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, § 2, eff. June 17, 1981.]

§ 11.127. Additional Requirements: Drainage Plans

If the commission believes that the efficient operation of any existing or proposed irrigation system

may be adversely affected by lack of adequate drainage facilities incident to the work proposed to be done by an applicant, the commission may require the applicant to submit to the executive director for approval plans for drainage adequate to guard against any injury which the proposed work may entail.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 11.128. Payment of Fee

If the applicant is not exempted from payment of the filing fee under Section 12.112 of this code, he shall pay the filing fee prescribed by Section 12.111(b) of this code at the time he files the application. The commission shall not record, file, or consider the application until the executive director certifies to the commission that the fee is paid.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.129. Review of Application; Amendment

The commission shall determine whether the application, maps, and other materials comply with the requirements of this chapter and the rules of the board. The commission may require amendment of the application, maps, or other materials to achieve necessary compliance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.130. Recording Applications

(a) The executive director shall have all applications for appropriations recorded in a well-bound book kept for that purpose in the department's office.

(b) The executive director shall have the applications indexed alphabetically in the name of:

- (1) the applicant;
- (2) the stream or source from which the appropriation is sought to be made; and
- (3) the county in which the appropriation is sought to be made.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.131. Examination and Denial of Application Without Hearing

(a) The commission shall make a preliminary examination of the application, and if it appears that there is no unappropriated water in the source of supply or that the proposed appropriation should not be allowed for other reasons, the commission may deny the application.

(b) If the commission denies the application under this section and the applicant elects not to proceed further, the commission may order any part of the

fee submitted with the application returned to the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.132. Notice of Hearing

(a) The commission shall give notice of the hearing on the application as prescribed by this section.

(b) In the notice, the commission shall:

- (1) state the name and address of the applicant;
- (2) state the date the application was filed;
- (3) state the purpose and extent of the proposed appropriation of water;
- (4) identify the source of supply and the place where the water is to be stored or taken or diverted from the source of supply;
- (5) specify the time and place of the hearing; and

(6) give any additional information the commission considers necessary.

(c) If the proposed use is for irrigation, the commission shall include in the notice a general description of the location and area of the land to be irrigated.

(d) The notice shall be published once a week for two consecutive weeks before the date stated in the notice for the hearing in some newspaper having a general circulation in the section of the state where the source of water is located.

(e) The commission shall also mail a copy of the notice by first-class mail, postage prepaid, to each claimant or appropriator of water from the source of water supply, the record of whose claim or appropriation has been filed in the office of the commission. The notice shall also be mailed by first-class mail, postage prepaid, to all navigation districts within the watershed concerned. The inadvertent failure of the commission to mail a notice to a navigation district which is not a claimant or appropriator of water does not prevent the hearing on the application.

(f) The notice shall be mailed and first published not less than 20 days before the date set for the hearing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.133. Hearing

At the time and place stated in the notice, the commission shall hold a hearing on the application. Any person may appear at the hearing in person or by attorney or may enter his appearance in writing. Any person who appears may present objection to the issuance of the permit. The commission may receive evidence, orally or by affidavit, in support of or in opposition to the issuance of the permit, and it may hear arguments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.134. Action on Application

(a) After the hearing, the commission shall make a written decision granting or denying the application. The application may be granted or denied in whole or in part.

(b) The commission shall grant the application only if:

- (1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fee;
- (2) unappropriated water is available in the source of supply; and
- (3) the proposed appropriation:
 - (A) contemplates the application of water to any beneficial use;
 - (B) does not impair existing water rights or vested riparian rights; and
 - (C) is not detrimental to the public welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.135. Issuance of Permit

(a) On approval of an application, the commission shall issue a permit to the applicant. The applicant's right to take and use water is limited to the extent and purposes stated in the permit.

(b) The permit shall be in writing and attested by the seal of the commission, and it shall contain substantially the following information:

- (1) the name of the person to whom the permit is issued;
- (2) the date the permit is issued;
- (3) the date the original application was filed;
- (4) the use or purpose for which the appropriation is to be made;
- (5) the amount or volume of water authorized to be appropriated for each purpose;
- (6) a general description of the source of supply from which the appropriation is proposed to be made;
- (7) the time within which construction or work must begin and the time within which it must be completed; and
- (8) any other information the board prescribes.

(c) If the appropriation is for irrigation, the commission shall also place in the permit a description and statement of the approximate area of the land to be irrigated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.136. Recording of Permit

(a) The commission shall transmit the permit by registered mail to the county clerk of the county in which the appropriation is to be made.

(b) When the county clerk receives the permit and is paid the recording fee (as prescribed by Article 3930, Revised Civil Statutes of Texas, 1925, as amended), he shall file and record the permit in a

well-bound book kept for that purpose. He shall index the permit alphabetically in the name of the applicant and of the stream or source of water supply. After he has recorded the permit, the county clerk shall deliver the permit, on demand, to the applicant.

(c) When the permit is filed in the office of the county clerk, it is constructive notice of:

- (1) the filing of the application;
- (2) the issuance of the permit; and
- (3) all the rights arising under the filing of the application and the issuance of the permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.137. Seasonal Permits

(a) The commission may issue seasonal permits in the same manner that it issues regular permits. The provisions of this chapter governing issuance of regular permits apply to issuance of seasonal permits.

(b) The right to take, use, or divert water under seasonal permit is limited to the portion or portions of the calendar year stated in the permit.

(c) In a seasonal permit, the commission shall specify the conditions necessary to fully protect prior appropriations or vested rights on the stream.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.138. Temporary Permits

(a) The commission may issue temporary permits for beneficial purposes to the extent that they do not interfere with or adversely affect prior appropriations or vested rights on the stream from which water is to be diverted under such temporary permit. The commission may, by appropriate order, authorize any member of the commission to approve and issue temporary permits without notice and hearing if it appears to such issuing party that sufficient water is available at the proposed point of diversion to satisfy the requirements of the temporary permit as well as all existing rights. No temporary permit issued without notice and hearing shall authorize more than 10 acre-feet of water, nor may it be for a term in excess of one year.

(b) The commission may prescribe rules governing notice and procedure for the issuance of temporary permits.

(c) As between temporary permits, the one applied for first has priority.

(d) The commission may not issue a temporary permit for a period exceeding three calendar years.

(e) A temporary permit does not vest in its holder a permanent right to the use of water.

(f) A temporary permit expires and shall be cancelled by the commission in accordance with the terms of the permit.

(g) The board may prescribe by rule the fees to be paid for issuance of temporary permits, but no fee for issuance or extension of a temporary permit shall exceed \$500.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, §§ 5, 42, eff. June 10, 1981.]

The text of this section incorporates the amendment to former § 5.137 by Acts 1977, 65th Leg., p. 319, ch. 152, § 1.

§ 11.139. Emergency Permits

(a) The commission may grant an emergency permit for the diversion and use of water for a period of not more than 30 days if it finds that emergency conditions exist which threaten the public health, safety, and welfare and which override the necessity to comply with established statutory procedures.

(b) An emergency permit may be granted for a period of not more than 30 days, and no extension or additional emergency permit may be granted at the expiration of the original permit.

(c) An emergency permit may be granted under this section without the necessity to comply with statutory and other procedures required for granting other permits issued by the commission.

(d) The board may prescribe rules and adopt fees which are necessary to carry out the provisions of this section.

(e) An emergency permit does not vest in the permittee any right to the diversion and use of water and shall expire and be cancelled in accordance with its terms.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.140. Permits for Storage for Project Development

The commission may issue permits for storage solely for the purpose of optimum development of projects. The commission may convert these permits to permits for beneficial use if application to have them converted is made to the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.141. Date of Priority

When the commission issues a permit, the priority of the appropriation of water and the claimant's right to use the water date from the date of filing of the application.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.142. Domestic and Livestock Reservoir-Permit Exemption

Without obtaining a permit, a person may construct on his own property a dam or reservoir to

impound or contain not more than 200 acre-feet of water for domestic and livestock purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.143. Domestic and Livestock Reservoir—Use for Other Purposes

(a) The owner of a dam or reservoir exempted under Section 11.142 of this code who desires to use water from the dam or reservoir for purposes other than domestic or livestock use shall obtain a permit to do so. He may obtain a regular permit, a seasonal permit, or a permit for a term of years. He may elect to obtain the permit by proceeding under this section or under the other provisions of this chapter governing issuance of permits.

(b) If the applicant elects to proceed under this section, he shall submit to the department a sworn application, on a form furnished by the department, containing the following information:

(1) the name and post-office address of the applicant;

(2) the nature and purpose of the use and the amount of water to be used annually for each purpose;

(3) the major watershed and the tributary (named or unnamed) on which the dam or reservoir is located;

(4) the county in which the dam or reservoir is located;

(5) the approximate distance and direction from the county seat of the county to the location of the dam or reservoir;

(6) the survey or the portion of the survey on which the dam or reservoir is located and, to the best of the applicant's knowledge and belief, the distance and direction of the midpoint of the dam or reservoir from a corner of the survey, which information the executive director may require to be marked on an aerial photograph or map furnished by the department;

(7) the approximate surface area, to the nearest acre, of the reservoir when it is full and the average depth in feet when it is full; and

(8) the approximate number of square miles in the drainage area above the dam or reservoir.

(c) If the permit is sought for irrigation, the application must also specify:

(1) the total number of irrigable acres in the area;

(2) the number of acres to be irrigated within the area in any one year; and

(3) the approximate distance and direction of the land to be irrigated from the midpoint of the dam or reservoir.

(d) Before the commission may approve the application and issue the permit, it shall give notice and hold a hearing as prescribed by this section.

(e) In the notice, the commission shall:

(1) state the name and post-office address of the applicant;

(2) state the date the application was filed;

(3) state the purpose and extent of the proposed appropriation of water;

(4) identify the source of supply and the place where the water is stored; and

(5) specify the time and place of the hearing.

(f) The notice shall be published only once, at least 20 days before the date stated in the notice for the hearing on the application, in a newspaper having general circulation in the county where the dam or reservoir is located. At least 15 days before the date set for the hearing, the commission shall transmit a copy of the notice by first-class mail to each person whose claim or appropriation has been filed with the department and whose diversion point is downstream from that described in the application.

(g) The applicant shall pay the filing fee prescribed by Section 12.111(b) of this code at the time he files the application.

(h) The commission shall approve the application and issue the permit as applied for in whole or part if it determines that:

(1) there is unappropriated water in the source of supply;

(2) the applicant has met the requirements of this section;

(3) the water is to be used for a beneficial purpose;

(4) the proposed use is not detrimental to the public welfare or to the welfare of the locality; and

(5) the proposed use will not impair existing water rights.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.144. Approval for Alterations

All holders of permits and certified filings shall obtain the approval of the commission before making any alterations, enlargements, extensions, or other changes to any reservoir, dam, main canal, or diversion work on which a permit has been granted or a certified filing recorded. A detailed statement and plans for alterations or changes shall be filed with the department and approved by the executive director before the alterations or changes are made. This section does not apply to the ordinary maintenance or emergency repair of the facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.145. When Construction Must Begin

(a) If a permit is for appropriation by direct diversion, construction of the proposed facilities shall begin within the time fixed by the commission, which shall not exceed two years after the date the permit is issued. The appropriator shall work dili-

gently and continuously to the completion of the construction. The commission may, by entering an order of record, extend the time for beginning construction. The board may establish fees, not to exceed \$1,000, for extending the time to begin construction of the proposed facilities.

(b) If the permit contemplates construction of a storage reservoir, construction shall begin within the time fixed by the commission, not to exceed two years after the date the permit is issued. The commission, by entering an order of record, may extend the time for beginning construction. The board may fix fees, not to exceed \$1,000, for extending the time to begin construction of reservoirs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, § 3, eff. June 17, 1981.]

§ 11.146. Forfeitures and Cancellation of Permit for Inaction

(a) If a permittee fails to begin construction within the time specified in Section 11.145 of this code, he forfeits all rights to the permit, subject to notice and hearing as prescribed by this section.

(b) After beginning construction if the appropriator fails to work diligently and continuously to the completion of the work, the appropriation is subject to cancellation in whole or part, subject to notice and hearing as prescribed by this section.

(c) If the commission believes that an appropriation or permit should be declared forfeited under this section or any other sections of this code, it should give the appropriator or permittee 30 days notice and provide him with an opportunity to be heard.

(d) After the hearing, the commission by entering an order of record may cancel the appropriation in whole or part. The commission shall immediately transmit a certified copy of the cancellation order by certified mail to the county clerk of the county in which the permit is recorded. The county clerk shall record the cancellation order.

(e) If a permit has been issued for the use of water, the water is not subject to a new appropriation until the permit has been cancelled in whole or part as provided by this section.

(f) Except as provided by Subchapter E of this chapter, none of the provisions of this code may be construed as intended to impair, cause, or authorize or may impair, cause, or authorize the forfeiture of any rights acquired by any declaration of appropriation or by any permit if the appropriator has begun or begins the work and development contemplated by his declaration of appropriation or permit within the time provided by the law under which the declaration of appropriation was made or the permit was granted and has prosecuted or continues to prose-

cute it with all reasonable diligence toward completion.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.147. Effects of Permit on Bays and Estuaries

In its consideration of an application for a permit to store, take, or divert water, the commission shall assess the effects, if any, of the issuance of the permit on the bays and estuaries of Texas.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.148 to 11.170 reserved for expansion]

SUBCHAPTER E. CANCELLATION OF PERMITS, CERTIFIED FILINGS, AND CERTIFICATES OF ADJUDICATION FOR NONUSE

§ 11.171. Definitions

As used in this subchapter:

(1) "Other interested person" means any person other than a record holder who is interested in the permit or certified filing or any person whose direct interest would be served by the cancellation of the permit or certified filing in whole or part.

(2) "Certified filing" means a declaration of appropriation or affidavit that was filed with the State Board of Water Engineers under the provisions of Section 14, Chapter 171, General Laws, Acts of the 33rd Legislature, 1913, as amended.

(3) "Certificate of adjudication" means a certificate issued by the commission under Section 11.323 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.172. General Principle

A permit, certified filing, or certificate of adjudication is subject to cancellation in whole or part for 10 years nonuse as provided by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.173. Cancellation in Whole

If no part of the water authorized to be appropriated under a permit, certified filing, or certificate of adjudication has been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the appropriation is presumed to have been wilfully abandoned, and the permit, certified filing, or certificate of adjudication is subject to cancellation in whole as provided by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.174. Department to Initiate Proceedings

When the department finds that its records do not show that any water has been beneficially used under a permit, certified filing, or certificate of adjudication during the past 10 years, the executive director shall initiate proceedings, terminated by public hearing, to cancel the permit, certified filing, or certificate of adjudication.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.175. Notice

(a) At least 30 days before the date of the hearing, the commission shall send notice of the hearing to the holder of the permit, certified filing, or certificate of adjudication being considered for cancellation. Notice shall be sent by certified mail, return receipt requested, to the last address shown by the records of the commission. The commission shall also send notice by regular mail to all other holders of permits, certified filings, certificates of adjudication; and claims of water rights pursuant to Section 11.303 of this code in the same watershed.

(b) The commission shall also have the notice of the hearing published once a week for two consecutive weeks, at least 30 days before the date of the hearing, in a newspaper published in each county in which diversion of water from the source of supply was authorized or proposed to be made and in each county in which the water was authorized or proposed to be used, as shown by the records of the commission. If in any such county no newspaper is published, then the notice may be published in a newspaper having general circulation in the county.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.176. Hearing

The commission shall hold a hearing and shall give the holder of the permit, certified filing, or certificate of adjudication and other interested persons an opportunity to be heard and to present evidence that water has, or has not, been beneficially used for the purposes authorized by the permit, certified filing, or certificate of adjudication during the 10-year period.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.177. Commission Finding; Action

At the conclusion of the hearing if the commission finds that no water has been beneficially used for authorized purposes during the 10-year period, the appropriation is deemed to have been wilfully abandoned, of no further force and effect, and the commission shall cancel the permit, certified filing, or certificate of adjudication.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.178. Cancellation in Part

If some part of the water authorized to be appropriated under a permit, certified filing, or certificate of adjudication has not been put to beneficial use at any time during the 10-year period immediately preceding the cancellation proceedings authorized by this subchapter, then the permit, certified filing, or certificate of adjudication is subject to partial cancellation, as provided by this subchapter, to the extent of the 10 years nonuse.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.179. Department May Initiate Proceedings

When the department finds that its records do not show proof that some portion of the water has been used during the past 10 years, the executive director may initiate proceedings, terminated by public hearing, to cancel the permit, certified filing, or certificate of adjudication in part.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.180. Notice

The commission shall give notice of the hearing as provided by Section 11.175 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.181. Hearing

The commission shall hold a hearing and shall give the holder of the permit, certified filing, or certificate of adjudication and other interested persons an opportunity to be heard and to present evidence on any matter pertinent to the questions at issue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.182. Commission Finding; Action

(a) At the conclusion of the hearing, the commission shall cancel the permit, certified filing, or certificate of adjudication to the extent that it finds that:

(1) any portion of the water appropriated under the permit, certified filing, or certificate of adjudication has not been put to an authorized beneficial use during the 10-year period;

(2) the holder has not used reasonable diligence in applying the unused portion of the water to an authorized beneficial use; and

(3) the holder has not been justified in the nonuse or does not then have a bona fide intention of putting the unused water to an authorized beneficial use within a reasonable time after the hearing.

(b) In determining what constitutes a reasonable time as used in Subsection (a)(3) of this section, the commission shall give consideration to:

- (1) the expenditures made or obligations incurred by the holder in connection with the permit, certified filing, or certificate of adjudication;
- (2) the purpose to which the water is to be applied;
- (3) the priority of the purpose; and
- (4) the amount of time usually necessary to put water to a beneficial use for the same purpose when diligently developed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.183. Reservoir

If the holder of a permit, certified filing, or certificate of adjudication has facilities for the storage of water in a reservoir, the commission may allow him to retain the impoundment to the extent of the conservation storage capacity of the reservoir for domestic, livestock, or recreation purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.184. Municipal Certified Filing

Regardless of other provisions of this subchapter, no portion of a certified filing held by a city, town, village, or municipal water district, authorizing the use of water for municipal purposes, shall be cancelled if water has been put to use under the certified filing for municipal purposes at any time during the 10-year period immediately preceding the institution of cancellation proceedings.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.185. Effect of Inaction

Failure to initiate cancellation proceedings under this subchapter does not validate or improve the status of any permit, certified filing, or certificate of adjudication in whole or in part.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.186. Subsequent Proceedings on Same Water Right

Once cancellation proceedings have been initiated against a particular permit, certified filing, or certificate of adjudication and a hearing has been held, further cancellation proceedings shall not be initiated against the same permit, certified filing, or certificate of adjudication within the five-year period immediately following the date of the hearing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.187 to 11.200 reserved for expansion]

SUBCHAPTER F. ARTESIAN WELLS

§ 11.201. Artesian Well Defined

An artesian well is an artificial water well in which the water, when properly cased, will rise by

natural pressure above the first impervious stratum below the surface of the ground.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.202. Right to Drill Artesian Well

A person is entitled to drill an artesian well on his own land for domestic purposes or for stock raising without complying with the general provisions of this code regulating the use of water. However, he shall have the well properly and securely cased, and when water is reached containing mineral or other substances injurious to vegetation or agriculture, he shall have the well securely capped or its flow controlled so as not to injure another person's land or shall fill the well so as to prevent the water from rising above the first impervious stratum below the surface of the ground.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.203. Artesian Well: Drilling Record

(a) A person who drills an artesian well or has one drilled shall keep a complete and accurate record of the depth, thickness, and character of the different strata penetrated and when the well is completed shall transmit a copy of the record to the department by registered mail.

(b) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$100.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.204. Report of New Artesian Well

Within one year after an artesian well is drilled, the owner or operator shall transmit to the department a sworn report stating the result of the drilling operation, the use to which the water will be applied, and the contemplated extent of the use.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.205. Wasting Water From Artesian Well

(a) Unless the water from an artesian well is used for a purpose and in a manner in which it may be lawfully used on the owner's land, it is waste to wilfully cause or knowingly permit the water to run off the owner's land or to percolate through the stratum above which the water is found.

(b) It is not waste to use water from an artesian well, if suitable, for proper irrigation of trees on a street, road, or highway or for ornamental ponds or fountains or for the propagation of fish.

(c) A person who commits waste as defined in this section is guilty of a misdemeanor and on conviction is punishable by a fine of not more than

\$500 or by confinement in the county jail for not more than 90 days or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.206. Improperly Cased Well: Nuisance

An artesian well that is not tightly cased, capped, and furnished with mechanical appliances that readily and effectively prevent water from flowing out of the well and running over the surface of the ground about the well or wasting through the strata through which it passes is a public nuisance and subject to abatement by the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.207. Annual Report

(a) Not later than March 1 of each year, a person who during any part of the preceding calendar year owned or operated an artesian well for any purpose other than domestic use shall file a report to the department on a form supplied by the department.

(b) The report shall state:

(1) the quantity of water which was obtained from the well;

(2) the nature of the uses to which the water was applied;

(3) the change in the level of the well's water table; and

(4) other information required by the department.

(c) If water from the well was used for irrigation, the report shall also state the acreage and yield of each crop irrigated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.208 to 11.300 reserved for expansion]

SUBCHAPTER G. WATER RIGHTS ADJUDICATION ACT

§ 11.301. Short Title

This subchapter may be cited as the Water Rights Adjudication Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.302. Declaration of Policy

The conservation and best utilization of the water resources of this state are a public necessity, and it is in the interest of the people of the state to require recordation with the department of claims of water rights which are presently unrecorded, to limit the exercise of these claims to actual use, and to provide for the adjudication and administration of water rights to the end that the surface-water resources of the state may be put to their greatest beneficial use. Therefore, this subchapter is in furtherance of the public rights, duties, and func-

tions mentioned in this section and in response to the mandate expressed in Article XVI, Section 59 of the Texas Constitution and is in the exercise of the police powers of the state in the interest of the public welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 11.303. Recordation and Limitation of Certain Water Rights Claims

(a) This section applies to:

(1) claims of riparian water rights;

(2) claims under Section 11.143 of this code to impound, divert, or use state water for other than domestic or livestock purposes, for which no permit has been issued;

(3) claims of water rights under the Irrigation Acts of 1889 and 1895¹ which were not filed with the State Board of Water Engineers in accordance with the Irrigation Act of 1913,² as amended; and

(4) other claims of water rights except claims under permits or certified filings.

(b) Any claim to which this section applies shall be recognized only if valid under existing law and only to the extent of the maximum actual application of water to beneficial use without waste during any calendar year from 1963 to 1967, inclusive. However, in any case where a claimant of a riparian right has prior to August 28, 1967, commenced or completed the construction of works designed to apply a greater quantity of water to beneficial use, the right shall be recognized to the extent of the maximum amount of water actually applied to beneficial use without waste during any calendar year from 1963 to 1970, inclusive.

(c) On or before September 1, 1969, every person claiming a water right to which this section applies shall file with the department a statement setting forth:

(1) the name and address of the claimant;

(2) the location and the nature of the right claimed;

(3) the stream or watercourse and the river basin in which the right is claimed;

(4) the date of commencement of works;

(5) the dates and volumes of use of water; and

(6) other information the department may require to show the nature and extent of the claim.

(d) A person who files a statement as provided in this section shall certify under oath that the statements made in support of his claim are true and correct to the best of his knowledge and belief.

(e) A claimant who desires recognition of a right based on use from 1968 to 1970, inclusive, as provided in Subsection (b) of this section shall file an additional sworn statement on or before July 1, 1971.

(f) The department shall prescribe forms for the sworn statements required by this section, but use of the department forms is not mandatory.

(g) On or before January 1, 1968, and June 1, 1969, the commission shall cause notice of the requirements of this section to be published once each week for two consecutive weeks in newspapers having general circulation in each county of the state and by first-class mail to each user of surface water who has filed a report of water use with the commission.

(h) On sworn petition, notice, and hearing as prescribed for applications for permits and upon finding of extenuating circumstances and good cause shown for failure to timely file, the commission may authorize the filing of the sworn statement or statements required by this section until entry of a preliminary determination of claims of water rights in accordance with Section 11.309 of this code which includes the area described in the petition or, if a preliminary determination has not been entered, until September 1, 1974.

(i) Since the filing of all claims to use public water is necessary for the conservation and best utilization of the water resources of the state, failure to file a sworn statement in substantial compliance with this section extinguishes and bars any claim of water rights to which this section applies.

(j) A sworn statement submitted under this section is binding on the person submitting it and his successors in interest, but is not binding on the commission or any other person in interest.

(k) Nothing in this section shall be construed to recognize any water right which did not exist before August 28, 1967.

(l) This section does not apply to use of water for domestic or livestock purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 2, eff. June 10, 1981.]

¹ Acts 1889, 21st Leg., p. 100, ch. 88; Acts 1895, 24th Leg., p. 21, ch. 21.

² Acts 1913, 33rd Leg., p. 358, ch. 171.

§ 11.304. Adjudication of Water Rights

The water rights in any stream or segment of a stream may be adjudicated as provided in this subchapter:

- (1) on the commission's own motion;
- (2) on petition to the commission signed by 10 or more claimants of water rights from the source of supply; or
- (3) on petition of the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 11.305. Investigation

(a) Promptly after a petition is filed under Section 11.304 of this Code, the commission shall consider

whether the adjudication would be in the public interest. If the commission finds that an adjudication would be in the public interest, it shall enter an order to that effect, designating the stream or segment to be adjudicated. The executive director shall have an investigation made of the area involved in order to gather relevant data and information essential to the proper understanding of the claims of water rights involved. The results of the investigation shall be reduced to writing and made a matter of record in the department's office.

(b) In connection with the investigation, the executive director shall have a map or plat made showing with substantial accuracy the course of the stream or segment and the location of reservoirs, diversion works, and places of use, including lands which are being irrigated or have facilities for irrigation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 3, eff. June 10, 1981.]

§ 11.306. Notice of Adjudication

(a) The commission shall prepare a notice of adjudication which describes the stream or segment to be adjudicated and the date by which all claims of water rights in the stream or segment shall be filed with the department. The date shall not be less than 90 days after the date the notice is issued.

(b) The notice shall be published once a week for two consecutive weeks in one or more newspapers having general circulation in the counties in which the stream or segment is located.

(c) The notice shall also be sent by first-class mail to each claimant of water rights whose diversion is within the stream or segment to be adjudicated, to the extent that the claimants can reasonably be ascertained from the records of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 4, eff. June 10, 1981.]

§ 11.307. Filing of Sworn Claims

(a) Every person claiming a water right of any nature, except for domestic or livestock purposes, from the stream or segment under adjudication shall file a sworn claim with the department within the time prescribed in the notice of adjudication, including any extensions of the prescribed time, setting forth:

- (1) the name and post-office address of the claimant;
- (2) the location and nature of the right claimed, including a description of any permit or certified filing under which the claim is made;
- (3) the purpose of the use;
- (4) a description of works and irrigated land; and
- (5) all other information necessary to show the nature and extent of the claim.

(b) The department shall prescribe forms for claims, but use of the department forms is not mandatory.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 11.308. Hearings on Claims; Notice

The commission shall set a time and a place for hearing all claims. Not less than 30 days before commencement of the hearings, the commission shall give notice of the hearings by certified mail to all persons who have filed claims in accordance with Section 11.307 of this code, or this notice may be included in the notice of adjudication provided in Section 11.306 of this code. The hearings shall be conducted as provided in Section 11.337 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.309. Preliminary Determination of Claims

(a) On completion of the hearings, the commission shall make a preliminary determination of the claims to water rights under adjudication.

(b) One copy of the preliminary determination shall be furnished without charge to each person who filed a claim in accordance with Section 11.307 of this code. Additional copies of the preliminary determination shall be made available for public inspection at convenient locations throughout the river basin, as designated by the commission. Copies shall also be made available to other interested persons at a reasonable price, based on the cost of reproduction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.310. Evidence Open to Inspection

All evidence presented to or considered by the commission shall be open to public inspection for a period of not less than 60 days, as fixed by the commission, after the notice prescribed in Section 11.312 of this code is issued.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.311. Date for Filing Contests

The commission shall set a date for filing contests on the preliminary determination, which date shall not be less than 30 days after the period for public inspection of the evidence has closed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.312. Notice of Preliminary Determination; Copies

(a) Promptly after the preliminary determination is made as provided in Section 11.309 of this code, the commission shall publish notice of the determination once a week for two consecutive weeks in one or more newspapers having general circulation

in the river basin in which the stream or segment that is the subject of the adjudication is located.

(b) The commission shall also send notice by first-class mail to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the department.

(c) Each notice shall state:

(1) the place and the period of time that the preliminary determination and evidence presented to or considered by the commission will be open for public inspection;

(2) the locations throughout the river basin where copies of the preliminary determination will be available for public inspection;

(3) the method of ordering copies of the preliminary determination and the charge for copies;

(4) the date by which contests on the preliminary determination must be filed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.313. Filing Contests

(a) Any water right claimant affected by the preliminary determination, including any claimant to water rights within the river basin but outside the stream or segment under adjudication, who disputes the preliminary determination may within the time for filing contests prescribed by the commission in the notice, including any extension of the time, file a written contest with the commission, stating with reasonable certainty the grounds of his contest.

(b) The statement filed to contest a preliminary determination must be verified by an affidavit of the contestant, his agent, or his attorney.

(c) If the contest is directed against the preliminary determination of the water rights of other claimants, a copy shall be served on each of these claimants or his attorney by certified mail, and proof of service shall be filed with the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.314. Hearing on Contest; Notice

After the time for filing contests has expired, the commission shall prepare a notice setting forth the part of the preliminary determination to which each contest is directed and the time and place of a hearing on the contest. The notice shall be sent to each claimant of water rights within the river basin in which the stream or segment is located, to the extent that the claimants can be reasonably ascertained from the records of the department. The hearing shall be conducted as provided in Section 11.337 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 11.315. Final Determination

On completion of the hearings on all contests, the commission shall make a final determination of the claims to water rights under adjudication. The commission shall send a copy of the final determination and any modification of the final determination to each claimant whose rights are adjudicated and to each contesting party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.316. Application for Rehearing

Within 30 days from the date of the final determination, any affected party may apply to the commission for a rehearing. Applications for rehearing which in the opinion of the commission are without merit may be denied without notice to other parties, but no application for rehearing shall be granted without notice to each claimant whose rights are adjudicated and to each contesting party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.317. Filing Final Determination With District Court

(a) As soon as practicable after the disposition of all applications for rehearing, the commission shall file a certified copy of the final determination, together with all evidence presented to or considered by the commission, in a district court of any county in which the stream or segment under adjudication is located. However, if the stream or segment under adjudication includes all or parts of three or more counties and if 10 or more affected persons who appeared in the proceedings petition the commission to do so, the commission shall file the action in a convenient district court of a judicial district which is not within the river basin of the stream or segment under adjudication.

(b) The commission shall obtain an order from the court fixing a time not less than 30 days from the date of the order for the filing of exceptions to the final determination and also fixing a time not less than 60 days from the date of the order for the commencement of hearings on exceptions.

(c) The commission shall immediately give written notice of the court order by certified mail to all parties who appeared in the proceedings before the commission. The commission shall file proof of the service with the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.318. Exceptions to Final Determination

(a) Any affected person who appeared in the proceeding before the commission may file exceptions to the final determination. An exception must state with a reasonable degree of certainty the grounds for the exception and must specify the particular paragraphs and pages of the determination to which the exception is taken.

(b) Three copies of the exceptions shall be filed in court, and a copy shall be served on the commission. The commission shall make copies of all exceptions available at a reasonable price, based on the cost of reproduction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.319. Hearings on Exceptions

(a) The court shall hear any exceptions that have been filed. The commission and all affected persons who appeared in the proceedings before the commission are entitled to appear and be heard on the exceptions. The court may permit other parties in interest to appear and be heard for good cause shown.

(b) The court may conduct nonjury hearings and proceedings at any convenient location within the state. Actual expenses incurred by the court outside its judicial district shall be taxed as costs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.320. Scope of Judicial Review

(a) In passing on exceptions, the court shall determine all issues of law and fact independently of the commission's determination. The substantial evidence rule shall not be used. The court shall not consider any exception which was not brought to the commission's attention by application for rehearing. The court shall not consider any issue of fact raised by an exception unless the record of evidence before the commission reveals that the question was genuinely in issue before the commission.

(b) A party in interest may demand a jury trial of any issue of fact, but the court may in its discretion have a separate trial with a separate jury of any such issue.

(c) The legislature declares that the provisions of this section are not severable from the remainder of this subchapter and that this subchapter would not have been passed without the inclusion of this section. If this section is for any reason held invalid, unconstitutional, or inoperative in any way, the holding applies to the entire subchapter so that the entire subchapter is null and void.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.321. Evidence

Any exception heard by the court without a jury may be resolved on the record of evidence before the commission, or the court may take additional evidence or direct that additional evidence be heard by the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.322. Final Decree

(a) After the final hearing, the court shall enter a decree affirming or modifying the order of the commission.

(b) The court may assess the costs as it deems just.

(c) An appeal may be taken from the decree of the court in the same manner and with the same effect as in other civil cases.

(d) The final decree in every water right adjudication is final and conclusive as to all existing and prior rights and claims to the water rights in the adjudicated stream or segment of a stream. The decree is binding on all claimants to water rights outside the adjudicated stream or segment of a stream.

(e) Except for domestic and livestock purposes or rights subsequently acquired by permit, a water right is not recognized in the adjudicated stream or segment of a stream unless the right is included in the final decree of the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.323. Certificate of Adjudication

(a) When a final determination of the rights to the waters of a stream has been made in accordance with the procedure provided in this subchapter and the time for a rehearing has expired, the commission shall issue to each person adjudicated a water right a certificate of adjudication, signed by the chairman and bearing the seal of the commission.

(b) In the certificate, the commission shall include:

- (1) a reference to the final decree;
- (2) the name and post-office address of the holder of the adjudicated right;
- (3) the priority, extent, and purpose of the adjudicated right and, if the right is for irrigation, a description of the irrigated land; and
- (4) all other information in the decree relating to the adjudicated right.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.324. Recordation of Certificate

(a) The commission shall transmit the certificate of adjudication or a true copy to the county clerk of each county in which the appropriation is made.

(b) On receipt of the recording fee from the holder of the certificate, the county clerk shall file and record the certificate in a well-bound book provided and kept for that purpose only. The clerk shall index the certificate alphabetically under the name of the holder of the certificate of adjudication and under the name of the stream or source of water supply.

(c) When a certificate of adjudication is filed and recorded as provided in this section, the county

clerk shall deliver the certificate on demand to the holder.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.325. Water Divisions

The board shall divide the state into water divisions for the purpose of administering adjudicated water rights. Water divisions may be created from time to time as the necessity arises. The divisions shall be constituted to secure the best protection to the holders of water rights and the most economical supervision on the part of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.326. Appointment of Watermaster

(a) The executive director may appoint one watermaster for each water division.

(b) A watermaster holds office until a successor is appointed. The executive director may remove a watermaster at any time.

(c) The executive director may employ assistant watermasters and other employees necessary to aid a watermaster in the discharge of his duties.

(d) In a water division in which the office of watermaster is vacant, the executive director has the powers of a watermaster.

(e) The executive director shall supervise and generally direct the watermaster in the performance of his duties. A watermaster is responsible to the executive director for the proper performance of his duties.

(f) A person dissatisfied with any action of a watermaster may apply to the executive director for relief.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.327. Duties of Watermaster

(a) A watermaster shall divide the water of the streams or other sources of supply of his division in accordance with the adjudicated water rights.

(b) A watermaster shall regulate or cause to be regulated the controlling works of reservoirs and diversion works in time of water shortage, as is necessary because of the rights existing in the streams of his division, or as is necessary to prevent the waste of water or its diversion, taking, storage, or use in excess of the quantities to which the holders of water rights are lawfully entitled.

(c) A watermaster may regulate the distribution of water from any system of works that serves users whose rights have been separately determined.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.328. Watermaster's Notice Posted

If, in the performance of his duties, a watermaster regulates diversion works or the controlling works of reservoirs, he shall attach to the works a written notice, properly dated and signed, stating that the works have been properly regulated and are wholly under his control. The notice is legal notice to all parties interested in the diversion and distribution of the water served by the diversion works or reservoir.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.329. Compensation and Expenses of Watermaster

(a) The department shall pay the compensation and necessary expenses of a watermaster, assistant watermasters, and other necessary employees, but the holders of water rights that have been determined or adjudicated and are to be administered by the watermaster shall reimburse the department for the compensation and expenses.

(b) After the adjudication decree becomes final, the executive director shall notify each holder of water rights under the decree of the amount of compensation and expenses that will be required annually for the administration of the water rights so determined.

(c) The commission shall hold a public hearing to determine the apportionment of the costs of administration of adjudicated water rights among the holders of the rights. After a public hearing, the commission shall issue an order assessing the annual cost against the holders of water rights to whom the water will be distributed under the final decree. The commission shall equitably apportion the costs. The executive director may provide for payments in installments and shall specify the dates by which payments shall be made to the department.

(d) The executive director shall transmit all collections under this section to the State Treasurer.

(e) No water shall be diverted, taken, or stored by, or delivered to, any person while he is delinquent in the payment of his assessed costs.

(f) An order of the commission assessing costs remains in effect until the commission issues a further order. The commission may modify, revoke, or supersede an order assessing costs with a subsequent order. The commission may issue supplementary orders from time to time to apply to new diversions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.330. Outlet for Free Passage of Water

The owner of any works for the diversion or storage of water shall maintain a substantial headgate at the point of diversion, or a gate on each discharge pipe of a pumping plant, constructed so that it can be locked at the proper place by the

watermaster, or a suitable outlet in a dam to allow the free passage of water that the owner of the dam is not entitled to divert or impound. The board shall adopt rules, and the executive director shall enforce the rules, governing the type and location of the headgates or gates and the outlets to allow the free passage of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.331. Measuring Devices

The board, by rule, may require the owner of any works for the diversion, taking, storage, or distribution of water to construct and maintain suitable measuring devices at points that will enable the watermaster to determine the quantities of water to be diverted, taken, stored, released, or distributed in order to satisfy the rights of the respective users.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.332. Installation of Flumes

The board, by rule, may require flumes to be installed along the line of any ditch if necessary for the protection of water rights or other property.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.333. Failure to Comply With Board Rules

If the owner of waterworks using state water refuses or neglects to comply with the rules adopted pursuant to Section 11.330, 11.331, or 11.332 of this code, the executive director, after 10 days notice or after a period of additional time that is reasonable under the circumstances, may direct the watermaster to make adjustments of the control works to prevent the owner of the works from diverting, taking, storing, or distributing any water until he has fully complied with the rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 11.334. Suit Against Department for Injury

Any person who is injured by an act of the department under this subchapter may bring suit against the commission to review the action or to obtain an injunction. If the water right involved has been adjudicated as provided in this subchapter, the court shall issue an injunction only if it is shown that the department has failed to carry into effect the decree adjudicating the water right.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.335. Administration of Water Rights Not Adjudicated

(a) If any area in which water rights of record in the office of the department have not been adjudicated, the claimants of the rights and the commission may enter into a written agreement for their administration.

(b) An agreement made under authority of this section shall provide:

(1) the basis and manner of distribution of the water to which the agreement relates;

(2) the services of a special watermaster, and assistants if necessary, to carry out the agreement; and

(3) the allocation, collection, and payment of the annual costs of administration.

(c) An agreement to administer unadjudicated water rights shall be recorded in the offices of the department and of the county clerk of each county in which any of the works or lands affected by the agreement are located.

(d) The administration of water rights by agreement is governed by the provisions of this subchapter except as regards allocation and payment of the expenses of the administration.

(e) No agreement authorized by this section impairs any vested right to the use of water or creates any additional rights to the use of water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.336. Administration of Permits Issued After Adjudication

Permits, other than temporary permits, that are issued by the commission to appropriate water from an adjudicated stream or segment are subject to administration in the same manner as is provided in this subchapter for adjudicated water rights.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.337. Hearings: Notice and Procedure

(a) The commission shall give notice of a hearing or other proceeding it orders under this subchapter in the manner prescribed in the procedural rules of the commission, unless this subchapter specifically provides otherwise.

(b) In any proceeding in any part of the state, the commission may:

(1) take evidence, including the testimony of witnesses;

(2) administer oaths;

(3) issue subpoenas and compel the attendance of witnesses in the same manner as subpoenas are issued out of the courts of the state;

(4) compel witnesses to testify and give evidence; and

(5) order the taking of depositions and issue commissions for the taking of depositions in the

same manner as depositions are obtained in civil actions.

(c) Evidence may be taken by a duly appointed reporter before the commission or before an authorized representative who has the power to administer oaths.

(d) If a person neglects or refuses to comply with an order or subpoena issued by the commission or refuses to testify on any matter about which he may be lawfully interrogated, the commission may apply to a district court of the county in which the proceeding is held to punish him in the manner provided by law for such disobedience in civil actions.

(e) The commission may adjourn its proceedings from time to time and from place to place.

(f) When a proceeding before the commission is concluded, the commission shall render a decision as to the matters concerning which the proceeding was held.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.338. Cancellation of Water Rights

Nothing in this subchapter recognizes any abandoned or cancelled water right or impairs in any way the power of the commission under general law to forfeit, cancel, or find abandoned any water right, including adjudicated water rights.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.339. Underground Water Not Affected

This subchapter does not apply to underground water as defined in Chapter 52 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.340. Abatement of Certain Civil Suits

(a) Nothing in this subchapter prevents or precludes a person who claims the right to divert water from a stream from filing and prosecuting to a conclusion a suit against other claimants of the right to divert or use water from the same stream. However, if the commission has ordered a determination of water rights as provided in this subchapter or if the commission orders such a determination within 90 days after notice of the filing of a suit, the suit shall be abated on the motion of the commission or any party in interest as to any issues involved in the water rights determination.

(b) If a suit is abated as provided in Subsection (a) of this section, the court may grant or continue any temporary relief necessary to preserve the status quo pending a final determination of the water rights involved.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.341. **Limitation on Actions**

This subchapter does not affect any action or proceeding instituted before August 28, 1967, or any right accrued before that date except those specifically provided for in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 11.342 to 11.400 reserved for expansion]

SUBCHAPTER H. COURT-APPOINTED WATERMASTER

§ 11.401. **Scope of Subchapter**

The provisions of this subchapter apply to a suit if:

- (1) the state is a party;
- (2) the purpose of the suit is to determine the right of the parties to divert or use water of a surface stream; and
- (3) rights are asserted to use water in, or divert water to, not more than four counties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.402. **Appointment and Authority of Watermaster**

(a) A court having jurisdiction over a suit described in Section 11.401 of this code may appoint a watermaster with power to allocate and distribute, under the supervision of the court, the water taken into judicial custody.

(b) The court may not appoint a watermaster with authority to act both upstream and downstream from an existing reservoir on any surface stream of the state. However, once a watermaster is appointed, the construction of a new reservoir does not invalidate his appointment or restrict his authority over that portion of the stream contemplated by the original order of appointment.

(c) Under terms and conditions prescribed by the court, the watermaster may incur necessary expenses, appoint necessary deputies and assistants, and perform duties and assume responsibilities delegated to him by the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.403. **Compensation of Watermaster**

The court shall fix the compensation of the watermaster and his staff.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.404. **Expenses and Assessment of Costs of Watermaster**

(a) The trial court shall assess the costs and expenses of the watermaster and his staff against all persons receiving an allocation of the water in judicial custody. The court shall assess the costs

and expenses monthly or at other time intervals ordered by the court.

(b) The court shall assess the costs and expenses on the basis of:

- (1) acreage;
- (2) acre-feet of allocated water;
- (3) per capita; or
- (4) any other formula the court, after notice and hearing, determines to be the most equitable.

(c) During the pendency of an appeal, the trial court, in its discretion, may assess costs against some parties on one basis and against other parties on another basis.

(d) The costs and expenses are not to be taxed as ordinary court costs, but are to be considered costs necessary to protect the rights and privileges of the parties receiving allocations of water during the litigation and are to be paid by those parties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.405. **Failure to Pay Assessed Costs**

If the costs and expenses assessed are not paid within the time prescribed by the court, the court after notice and hearing may withdraw or limit allocations of water to any party failing or refusing to pay his share until all costs and expenses assessed against him are paid in full.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.406. **Judicial Custody of Water During Appeal**

If a party appeals the judgment of the trial court, that court may retain custody of the water which it has previously taken into judicial custody and over which it has appointed a watermaster. Until final judgment is entered in the case, the trial court has exclusive jurisdiction to administer, allocate, and distribute the water retained in its custody, as provided in Section 11.407 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.407. **Allocation and Distribution of Water During Appeal**

During the pendency of an appeal, the trial court shall limit the allocation and distribution of the water in its custody to the parties adjudicated to have a valid right to use the water. However, if any party prosecutes an appeal and files a supersedeas bond, the trial court shall make any necessary adjustments in the water allocations and allocate to that party the same amount of water that he received during the proceedings in the trial court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.408. Retention of Watermaster During Appeal

During the pendency of an appeal, the trial court may retain the watermaster in office with the same authority he had during the trial proceedings.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 11.409. Violations of Court Orders

If a party violates any order of the trial court either during trial proceedings or during an appeal, the trial court may limit or withdraw his allocation of water until he corrects the violation to the satisfaction of the court.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

CHAPTER 12. PROVISIONS GENERALLY APPLICABLE TO WATER RIGHTS

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

Former Chapter 12, Texas Offshore Terminal Commission, as added by Acts

1972, 62nd Leg., 4th C.S., p. 31, ch. 14, § 1, and amended by Acts 1977, 65th Leg., p. 1842, ch. 735, § 2.074, was deleted from Title 2 of the Water Code as revised by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1.

SUBCHAPTER A. GENERAL PROVISIONS

§ 12.001. Definitions

The definitions contained in Subchapter A, Chapter 11 of this code apply to this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.002 to 12.010 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS AND DUTIES RELATING TO WATER RIGHTS

§ 12.011. Permit Applications

The department shall receive, administer, and act on all applications for permits and permit amendments:

- (1) to appropriate public water for beneficial use or storage; or
- (2) to construct works for the impoundment, storage, diversion, or transportation of public water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.012. Evaluation of Outstanding Permits

The department shall actively and continually evaluate outstanding permits and certified filings and shall carry out measures to cancel wholly or partially the certified filings and permits that are subject to cancellation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.013. Rate-Fixing Power

(a) The commission shall fix reasonable rates for the furnishing of raw or treated water for any purpose mentioned in Chapter 11 or 12 of this code.

(b) The term "political subdivision" when used in this section means incorporated cities, towns or villages, counties, river authorities, water districts, and other special purpose districts.

(c) The commission in reviewing and fixing reasonable rates for furnishing water under this section may use any reasonable basis for fixing rates as may be determined by the commission to be

appropriate under the circumstances of the case being reviewed; provided, however, the commission may not fix a rate which a political subdivision may charge for furnishing water which is less than the amount required to meet the debt service and bond coverage requirements of that political subdivision's outstanding debt.

(d) The commission's jurisdiction under this section relating to incorporated cities, towns, or villages shall be limited to water furnished by such city, town, or village to another political subdivision on a wholesale basis.

(e) The commission may establish interim rates and compel continuing service during the pendency of any rate proceeding.

(f) The commission may order a refund or assess additional charges from the date a petition for rate review is received by the commission of the difference between the rate actually charged and the rate fixed by the commission, plus interest at the statutory rate.

(g) No action or proceeding commenced prior to January 1, 1977, before the Texas Water Rights Commission shall be affected by the enactment of this section.

(h) Nothing herein contained shall affect the jurisdiction of the Public Utility Commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 6.056 by Acts 1977, 65th Leg., p. 1650, ch. 647, § 1.

§ 12.014. Use of Department Surveys; Policy

The commission shall make use of surveys, studies, and investigations conducted by the staff of the department in order to ascertain the character of the principal requirements of the district regional division of the watershed areas of the state for beneficial uses of water, to the end that distribution of the right to take and use state water may be more equitably administered in the public interest, that privileges granted for recognized uses may be economically coordinated so as to achieve the maximum of public value from the state's water resources, and that the distinct regional necessities for water control and conservation and for control of harmful floods may be recognized.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.015. Power to Condemn Works

(a) The commission may condemn existing works if their existence or operation may, in the judgment of the commission, become a public menace or dangerous to life and property.

(b) In all cases of proposed condemnation, the commission shall notify the interested party of the

contemplated action and shall specify a time for him to appear and be heard.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.016. Power to Inspect

The executive director or his authorized agent may inspect any impoundment, diversion, or distribution works during construction to determine whether or not they are being constructed in a safe manner and whether or not they are being constructed according to the order of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.017. Power to Enter Land

Any member or employee of the department may enter any person's land, natural waterway, or artificial waterway for the purpose of making an investigation that would, in the judgment of the executive director, assist the department in the discharge of its duties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.018 to 12.050 reserved for expansion]

SUBCHAPTER C. PROJECTS

§ 12.051. Federal Projects

(a) In this section:

(1) "Federal project" means an engineering undertaking or work to construct, enlarge, or extend a dam, lake, reservoir, or other water-storage or flood-control work or a drainage, reclamation, or canalization undertaking or any combination of these financed in whole or in part with funds of the United States.

(2) "Engineering report" means the plans, data, profiles, maps, estimates, and drawings prepared in connection with a federal project.

(3) "Federal agency" means the Corps of Engineers of the United States Army, the Bureau of Reclamation of the Department of Interior, the Soil Conservation Service of the Department of Agriculture, the United States Section of the International Boundary and Water Commission, or any other agency of the United States, the function of which includes the conservation, development, retardation by impounding, control, or study of the water resources of Texas or the United States.

(b) When the governor receives an engineering report submitted by a federal agency seeking the governor's approval of a federal project, he shall immediately forward the report to the department for its study concerning the feasibility of the federal project.

(c) The board shall hold a public hearing to receive the views of persons and groups who might be affected by the proposed federal project. The board

shall publish notice of the time, date, place, nature, and purpose of the public hearing once each week for two consecutive weeks before the date stated in the notice in a newspaper having general circulation in the section of the state where the federal project is to be located or the work done.

(d) After hearing all the evidence both for and against approval of the federal project, the board shall enter its order approving or disapproving the feasibility of the federal project, and the order shall include the board's reasons for approval or disapproval.

(e) In determining feasibility, the board shall consider, among other relevant factors:

(1) the effect of the federal project on water users on the stream as certified by the commission;

(2) the public interest to be served;

(3) the development of damsites to the optimum potential for water conservation;

(4) the integration of the federal project with other water conservation activities;

(5) the protection of the state's interests in its water resources; and

(6) the engineering practicality of the federal project, including cost of construction, operation, and maintenance.

(f) The board shall forward to the governor a certified copy of its order. The board's finding that the federal project is either feasible or not feasible is final, and the governor shall notify the federal agency that the federal project has been either approved or disapproved.

(g) The provisions of this section do not apply to the state soil conservation board as long as that board is designated by the governor as the authorized state agency having supervisory responsibility to approve or disapprove of projects designed to effectuate watershed-protection and flood-prevention programs initiated in cooperation with the United States Department of Agriculture.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.052. Dam Safety

(a) The department shall make and enforce rules and orders and shall perform all other acts necessary to provide for the safe construction, maintenance, repair, and removal of dams located in this state.

(b) Rules and orders made by the board shall be made after proper notice and hearing as provided in the rules of the board.

(c) If the owner of a dam that is required to be constructed, reconstructed, repaired, or removed in order to comply with the rules and orders promulgated under Subsection (a) of this section wilfully fails or refuses to comply within the 30-day period following the date of the commission's order to do so or if a person wilfully fails to comply with any

rule or other order issued by the commission under this section within the 30-day period following the effective date of the order, he is liable to a penalty of not more than \$1,000 a day for each day he continues to violate this section. The state may recover the penalty by suit brought for that purpose in the district court of Travis County.

(d) If the commission determines that the existing condition of the dam is creating or will cause extensive or severe property damage or economic loss to others or is posing an immediate and serious threat to human life or health and that other procedures available to the department to remedy or prevent the occurrence of the situation will result in unreasonable delay, the commission may issue an emergency order, either mandatory or prohibitory in nature, directing the owner of a dam to repair, modify, maintain, dewater, or remove the dam which the commission determines is unsafe. The emergency order may be issued without notice to the dam owner or with notice the commission considers practicable under the circumstances. The notice does not have to comply with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(e) If the commission issues an emergency order under authority of this section without notice to the dam owner, the commission shall fix a time and place for a hearing which shall be held as soon as practicable to affirm, modify, or set aside the emergency order. The notice does not have to comply with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). If the nature of the commission's action requires further proceedings, those proceedings shall be conducted as appropriate under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

(f) Nothing in this section or in rules or orders made by the department shall be construed to relieve an owner or operator of a dam or reservoir of the legal duties, obligations, or liabilities incident to ownership or operation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

[Sections 12.053 to 12.080 reserved for expansion]

SUBCHAPTER D. WATER DISTRICTS

§ 12.081. Continuing Right of Supervision of Districts Created Under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution

(a) The powers and duties of all districts and authorities created under Article III, Section 52 and Article XVI, Section 59 of the Texas Constitution are subject to the continuing right of supervision of the State of Texas by and through the department

or its successor, and this supervision may include but is not limited to the authority to:

- (1) inquire into the competence, fitness, and reputation of the officers and directors of any district;
- (2) require, on its own motion or on complaint by any person, audits or other financial information, inspections, evaluations, and engineering reports;
- (3) issue subpoenas for witnesses to carry out its authority under this subsection;
- (4) institute investigations and hearings using examiners appointed by the commission; and
- (5) issue rules necessary to supervise the districts.

(b) The provisions of this section shall not apply to any river authority encompassing 10 or more counties which was not subject to the continuing right of supervision of the State of Texas by and through the commission or its predecessors on June 10, 1969.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.082. Duty to Investigate Fresh Water Supply District Projects

- (a) In this section:
 - (1) "District" means fresh water supply district.
 - (2) "Designated agent" means any licensed engineer selected by the executive director to perform the functions specified in this section.
- (b) The department shall investigate and report on the organization and feasibility of all districts created under Chapter 53 of this code which issue bonds under the provisions of that chapter.
- (c) A district that wants to issue bonds for any purpose shall submit to the department a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications made in connection with the engineer's report.
- (d) The executive director or his designated agent shall examine the application and other information and shall visit the project and carefully inspect it. The executive director or his designated agent may ask for and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.
- (e) The executive director or his designated agent shall file with the commission written suggestions for changes and improvements and shall furnish a copy of the suggestions to the board of the district. If the commission finally approves or refuses to approve the project or the issuance of bonds for the improvements it shall make a full written report, file it in its office, and furnish a copy of the report to the board of the district.

(f) During the course of construction of the project and improvements, no substantial alterations shall be made in the plans and specifications without the approval of the executive director. The executive director or his designated agent has full authority to inspect the improvements at any time during construction to determine if the project is being constructed in accordance with approved plans and specifications.

(g) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, the executive director immediately shall notify in writing by certified mail each member of the board of the district and its manager. If, within 10 days after the notice is mailed, the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the executive director shall give written notice of that fact to the attorney general.

(h) After the attorney general receives the notice, he may bring an action for injunctive relief, or he may bring quo warranto proceedings against the directors. Venue for either of these actions is exclusively in the district of Travis County.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.083. Districts; Creation, Investigations and Bonds

- (a) The commission succeeds to the duties and responsibilities of the Texas Water Rights Commission with regard to the creation of districts as defined by Section 50.001(1) of this code and to approve or disapprove the issuance of the bonds of all such districts.
- (b) The executive director shall investigate and report on the organization and feasibility of all districts as defined by Section 50.001(1) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.084 to 12.110 reserved for expansion]

SUBCHAPTER E. FEES

§ 12.111. Renumbered as § 5.182 by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981

§ 12.112. Fees: Exemptions

The board and the Parks and Wildlife Commission are exempted from payment of any filing, recording, or use fees required by this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 12.113. Disposition of Fees, Etc.

(a) The department shall immediately deposit in the State Treasury the fees and charges it collects.

(b) The department shall deposit all costs collected under Subchapter F, Chapter 11 of this code¹ in the State Treasury to the credit of the water rights administration fund, from which the department shall pay all expenses necessary to efficiently administer and perform the duties described in Sections 11.325 through 11.335 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹Section 11.201 et seq.

§ 12.114. Disposition of Fees Pending Determination

The department shall hold all fees, except filing fees, which are paid with an application until the commission finally determines whether the application should be granted. If the application is not granted, the department shall return the fees to the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 12.115 to 12.140 reserved for expansion]

SUBCHAPTER F. PENALTIES

§ 12.141. Violations of Rules, Orders, Certified Filings, Permits, Certificates of Adjudication

A person who wilfully violates any of the rules or orders adopted by the board or any of the terms and conditions contained in declarations of appropriations (certified filings), permits, certificates of adjudication, and orders of the commission is subject to a civil penalty of not more than \$1,000 for each act of violation and for each day that the violation continues to take place. An action to collect the penalty provided in this section must be brought within two years from the date of the alleged violation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

[Chapters 13 and 14 reserved for expansion]

SUBTITLE C. WATER DEVELOPMENT

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SUBCHAPTER A. GENERAL PROVISIONS

§ 15.001. Definitions

In this chapter:

- (1) "Board" means the Texas Water Development Board.

(2) "Commission" means the Texas Water Commission.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Political subdivision" means a city, county, district or authority created under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, any other political subdivision of the state, or any interstate compact commission to which the state is a party.

(6) "Project" means any undertaking or work to conserve, convey, and develop surface or subsurface water resources of the state, to provide for the maintenance and enhancement of the quality of the water of the state, to provide flood control and drainage, and to carry out other purposes defined by board rules.

(7) "Fund" means the water assistance fund.

(8) "Loan fund" means the water loan assistance fund.

(9) "Conservation" as used herein shall include but not be limited to projects to develop water resources as well as projects to reduce consumption of water and projects to promote more efficient use of water.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.002. Purpose

(a) The legislature finds that it is in the public interest and to the benefit of the general public of the state to encourage and to assist in the planning and construction of projects to develop and conserve the storm water and floodwater as well as the ordinary flows of the rivers and streams of the state, to maintain and enhance the quality of the water of the state, to provide protection to the state's citizens from the floodwater of the rivers and streams of the state, and other purposes as provided by law or board rule.

(b) The legislature finds that the conventional means of financing projects are inadequate to meet current and anticipated needs of the state. Therefore, it is the further intent of the legislature to provide a means of coordinating the development of projects throughout the state through the board and to provide political subdivisions the maximum opportunity to finance projects through programs provided by this chapter.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.003. Power to Define Purposes

The board, by rule, may define in greater detail the purposes enumerated in Section 15.002.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.004. Transbasin Diversion

Money on deposit in a fund created under Article VIII, Section 24(b),¹ of the Texas Constitution shall not be used to finance or in aid of any project under this chapter that contemplates or results in the removal from the basin of origin of any surface water necessary to supply the reasonably foreseeable future water requirements for the next ensuing 50-year period within the river basin of origin, except on a temporary, interim basis.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

¹ Proposed adoption of Const. Art. 8, § 24, defeated at election held November 3, 1981.

§ 15.005. Consideration of Certain Applications

(a) On submission of a project application under this chapter, the executive director shall determine if the application includes a project that will have flood control as one of its purposes and if the political subdivision submitting the application includes all of the watershed in which the project is to be located.

(b) If the executive director finds that the application includes a project that has flood control as one of its purposes and that the watershed in which the project is located is partially located outside the political subdivision making the application, the executive director shall require the applicant to submit a written memorandum of understanding relating to the management of the watershed in which the project is to be located.

(c) The memorandum of understanding must be approved by all governing bodies of political subdivisions located in the watershed in which the project is to be located and must be signed by the presiding officers of each of those political subdivisions.

(d) The board shall not consider any application for which a memorandum of understanding must be filed under this section until that memorandum of understanding is filed with the executive director.

(e) The board shall adopt rules for carrying out this section.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

[Sections 15.006 to 15.010 reserved for expansion]

SUBCHAPTER B. WATER ASSISTANCE FUND

§ 15.011. Water Assistance Fund

(a) The water assistance fund is created and shall be administered by the board under this chapter and rules adopted by the board.

(b) After notice and hearing and subject to any limitations established by the General Appropriations Act, the board may transfer money from the fund to the loan fund created under Subchapter C of this chapter,¹ the storage acquisition fund creat-

ed under Subchapter E of this chapter,² and the research and planning fund created under Subchapter F of this chapter.³

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

¹ Section 15.101 et seq.

² Section 15.301 et seq.

³ Section 15.401 et seq.

§ 15.012. Management of Fund

(a) The board may invest, reinvest, and direct the investment of money accumulated in the fund.

(b) Revenues accumulated pursuant to Article VIII, Section 24(b),¹ of the Texas Constitution and money appropriated by the legislature to the fund shall be deposited in this fund.

(c) Money appropriated to the fund by the legislature for a specific purpose stated in Subchapter C, E, or F of this chapter² shall be placed in the appropriate fund created by that subchapter.

(d) The money held in the fund will be invested as provided by law for investment of money in the water development fund in accordance with procedures in Chapter 401, Acts of the 60th Legislature, 1967, as amended (Article 6252-5a, Vernon's Texas Civil Statutes).

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

¹ Proposed adoption of Const. Art. 8, § 24, defeated at election held November 3, 1981.

² Section 15.101 et seq., 15.301 et seq., or 15.401 et seq.

[Sections 15.013 to 15.100 reserved for expansion]

SUBCHAPTER C. WATER LOAN ASSISTANCE PROGRAM

§ 15.101. Water Loan Assistance Fund

(a) The water loan assistance fund is created, to be funded by the board at its discretion from the fund.

(b) Repayments of loans shall be deposited in the water assistance fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.102. Financial Assistance

The loan fund may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, improvement, or enlargement of projects as defined by this chapter and the board rules.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.103. Application for Assistance

(a) In an application to the board for financial assistance from the loan fund, the applicant shall include:

(1) the name of the political subdivision and its principal officers;

(2) a citation of the law under which the political subdivision operates and was created;

(3) the total cost of the project;

(4) the amount of state financial assistance requested;

(5) the plan for repaying the total cost of the project; and

(6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for financial assistance from the loan fund unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules.

(c) The rules shall not restrict or prohibit the board from requiring additional factual material from an applicant.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.104. Certificate of Commission or Approval by Commission

(a) Except as provided by Subsection (b) of this section, the board shall not deliver funds pursuant to an application for financial assistance from the loan fund until the political subdivision has furnished the board a resolution adopted by the commission certifying:

(1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water that the project will provide; or

(2) that an applicant proposing underground water development has the right to use water that the project will provide.

(b) If an applicant includes a proposal for a waste water treatment plant, the part of the application relating to the waste water treatment plant does not need to be certified by the commission, but the board may not deliver funds for the waste water treatment plant until the political subdivision has obtained written evidence of approval of the plans for the waste water treatment plant from the executive director.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.105. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance from the loan fund, the board shall consider but is not limited to:

(1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;

(2) the availability of revenue to the political subdivision from all sources for the ultimate re-

payment of the cost of the project, including all interest;

(3) the relationship of the project to overall statewide needs; and

(4) the ability of the applicant to finance the project without state assistance.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.106. Approval of Application

After notice and hearing, the board, by resolution, may approve an application if after considering the factors listed in Section 15.105 of this code and any other relevant factors, the board finds:

(1) that the public interest requires state participation in the project; and

(2) that in its opinion the revenue or taxes or both revenue and taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.107. Method of Financial Assistance

The board may provide financial assistance by using the money in the loan fund to contract with a political subdivision under terms and conditions and within limitations established by the board, for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by a political subdivision. Subject only to constitutional limitations, all contracting political subdivisions may issue and execute those bonds, notes, or other obligations necessary to conform to and comply with repayment obligations adopted by the board. Financial assistance to a political subdivision under this subchapter shall be repaid to the board, and the payments made to the board by the political subdivision for this financial assistance shall be made in compliance with terms and conditions established by the board.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.108. Approval and Registration

The board shall not contract for the payment of the principal of or interest on or both the principal of and interest on any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.109. Contracts Incontestable

Contracts entered into by the board for the payment of the principal of or interest on or both the principal of and interest on bonds or other obligations issued by a political subdivision are valid, binding, and incontestable after:

(1) approval of the bonds or other obligations by the attorney general;

(2) registration of the bonds or other obligations by the comptroller; and

(3) purchase by and delivery of the bonds or other obligations to the purchaser.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.110. Inspection of Projects

(a) The department may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.111. Alteration of Plans

After board approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive director authorizes the alteration.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.112. Certificate of Approval

The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to the director's plans as approved by the board or as altered with the executive director's approval;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

[Sections 15.113 to 15.300 reserved for expansion]

SUBCHAPTER D

A Subchapter D, Water Bond Guaranty Program, consisting of §§ 15.201 to 15.218, was added by Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, effective only if the constitutional amendment proposed by Acts 1981, 67th Leg., 1st C.S., H.J.R. No. 6, was adopted. The constitutional amendment so proposed was not adopted.

SUBCHAPTER E. STORAGE ACQUISITION PROGRAM

§ 15.301. Fund Created

There is created a revolving fund in the state treasury to be known as the storage acquisition fund which is to be funded by transfers from the fund at the discretion of the board.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.302. Authorized Projects

(a) The board may use the storage acquisition fund for projects including the design, acquisition, lease, construction, reconstruction, development, or engagement in whole or part of any existing or proposed water storage project.

(b) In addition, the board may, at its discretion and in accordance with its rules, contract with a political subdivision, under terms and conditions established by the board, to pay the principal of or interest on or both the principal of and interest on bonds or other obligations issued or to be issued by a political subdivision.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.303. Joint Ventures

The board may act singly or in a joint venture in partnership with any political subdivision, with the United States, or with any other state to the extent permitted by law.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.304. Permits Required

The board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.305. Storing Water

The board may use any reservoir acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.306. Board Findings

Before the board may acquire storage facilities in any reservoir, the board shall find affirmatively that:

- (1) it is reasonable to expect that the state will recover its investment in the facilities;
- (2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the

facilities cannot be reasonably financed by local interests without state participation;

(3) the public interest will be served by acquisition of the facilities; and

(4) the facilities to be constructed or reconstructed contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.307. Facilities Wanted by Political Subdivision

The board shall not acquire any facility to the extent that the board finds that the political subdivision:

- (1) is willing and reasonably able to finance the acquisition of the facility;
- (2) has qualified by obtaining the necessary permit; and
- (3) has proposals that are consistent with the objectives of the state water plan.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.308. Contracts: General Authority

(a) The board may execute contracts which include but are not limited to the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed storage project.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.309. Specific Contracts Authorized

Contracts authorized by Section 15.308 of this code include but are not limited to the following:

- (1) federal grants or grants from other sources;
- (2) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;
- (3) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance of any existing or proposed project or portion of the project; and
- (4) contracts secured by the pledge of all or any part of funds in the storage acquisition fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.310. Contracts: Facilities Acquired for a Term of Years

If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.311. Maintenance Contracts

The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation and maintenance charges allocable to the state interest.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.312. Recreational Facilities

The board may execute contracts with the United States and with state agencies and political subdivisions and with others to the extent authorized for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts shall be deposited in the water assistance fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.313. Board May Sell or Lease Projects

(a) The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the storage acquisition fund.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.314. Permit Required

Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.315. Contract Must be Negotiated

The commission may issue a term permit until the applicant has executed a contract with the board for acquisition of the facilities.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.316. Reservoir Land

The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.317. Price of Sale

(a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the date of acquisition by the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of the disbursement of funds to the date or dates of the sale or transfer of the state facility, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The purchaser of the board's interest in a state facility shall also assume, to the extent disclosed by the board at or before the sale, any and all direct, conditional, or contingent liabilities of the board attributed to the project in direct relation to the percentage of the project acquired by the purchaser.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.318. Price of Sale: Facilities Acquired Under Contracts With the United States

(a) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1981, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the time of acquisition, by the amount of board money disbursed for the acquisition of the facility times the number of years and fraction of a year from the date or dates of disbursement of the money to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) of this section, as applicable, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall

continue these payments until the board is fully released from the contract.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.319. Costs Defined

With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid plus the amounts the board has agreed to pay under obligations not transferred to the purchaser for a facility up to the date of sale, but does not include the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.320. Lease Payments

In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

- (1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and
- (2) the state's annual cost for operation, maintenance, and rehabilitation of the facility.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.321. Sale or Lease: Condition Precedent

(a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

- (1) that the applicant has a permit granted by the commission;
- (2) that the sale, transfer, or lease serves the public interest; and
- (3) that the consideration for the sale, transfer, or lease is fair, just, reasonable, and in full compliance with the law.

(b) The consideration for a sale or transfer may be either money or revenue bonds which for the purposes of this section shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by Sections 15.317-15.318 of this code, or if revenue bonds constitute the consideration, the principal amount of revenue bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Sections 15.317-15.318 of this code, and the revenue bonds shall bear interest at the rate prescribed in Section 17.128 of this code with regard to bonds purchased with the proceeds of the Texas water development fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.322. Disposition of Proceeds

The money received from any sale, transfer, or lease of facilities, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be placed in the water assistance fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.323. Sale of Stored Water

The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price shall be determined by the board. The money received from any sale shall be placed in the water assistance fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.324. Sale Contract: Provisions, Limitations

(a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required by Section 15.321 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivisions in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.325. Emergency Releases of Water

(a) All water owned by the board in any facility may be released at the discretion of the board, with or without charge, to relieve any emergency condition arising from drought, public calamity, or any other reason causing a severe water shortage, if the commission first determines the existence of the emergency and requests the board to release water to alleviate the emergency condition.

(b) The executive director may authorize the release of water owned by the state from any facility in which the state has an interest under this subchapter for a period of not to exceed 72 hours from time of authorization to relieve an emergency condition that poses an imminent threat of flooding. The commission must approve any release of water that must be made beyond the 72-hour period provided by this subsection.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.326. Preferences

The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 of this code. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.327. Lease of Land Prior to Project Construction

The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construction. The lease shall provide for expiration before initiation of project construction. The money received from such leases shall be placed in the water assistance fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.328. Lease Contribution Equivalent to Taxes

The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.329. Inspection of Projects

(a) The department may inspect the construction of a project any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as submitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.330. Alteration of Plans

After board approval of engineering plans, a political subdivision shall not make any substantial or material alteration in the plans unless the executive director authorizes the alteration.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.331. Certificate of Approval

The board may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to plans approved by the board or as altered with the executive director's approval;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any terms of the contract.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

[Sections 15.332 to 15.400 reserved for expansion]

SUBCHAPTER F. RESEARCH AND PLANNING PROGRAM

§ 15.401. Program Creation

The research and planning program is created to provide money for research into the proper conservation and development of the state's water resources and for flood control planning by political subdivisions.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.402. Research and Planning Fund

The research and planning fund is created in the state treasury to be funded at the discretion of the board from the money in the fund.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.403. Rules

The board shall adopt rules to carry out this chapter.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.404. Research Contracts

(a) The board may enter into a contract with any person for research into any matter relating to the conservation and development of the state's water resources.

(b) Before a contract is awarded, the board may prepare written specifications for the proposed contract and may require each prospective contractor to prepare and submit to the board a written proposal that includes:

(1) a description of the proposed research project;

(2) a detailed estimate of the cost of the proposed research project;

(3) the estimated time required to complete the research project; and

(4) any other information requested by the board or required by the board's rules.

(c) At a regular or specially called meeting of the board, the board may award a research contract to any person and may provide money from the research and planning fund in any amount the board considers adequate to carry out the research project under the contract.

(d) The board shall adopt rules providing criteria for research projects and for eligibility of persons to receive contract awards under this section.

(e) A contract made by the board under this section shall include:

- (1) a detailed description of the research project;
- (2) the time in which the research project is to be completed;
- (3) the total amount of money to be paid by the board from the research and planning fund for the research project; and
- (4) any other terms and conditions required by the board's rules or agreed to by the contracting parties.

(f) The board may enter into a supplemental contract with a contractor under this section to change any of the provisions of a contract awarded under this section including extension of time to complete the project, the award of more research funds, or changes in the planned research.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

§ 15.405. Planning Contracts

(a) The board may enter into contracts with political subdivisions to pay from the research and planning fund all or part of the cost of developing flood control plans for the political subdivision.

(b) A political subdivision that desires money from the research and planning fund for flood control planning shall submit a written application to the board in the manner and form required by board rules.

(c) The application shall include:

- (1) the name of the political subdivision;
- (2) a citation to the laws under which the political subdivision was created and is operating including specific citation of all laws providing flood control authority;
- (3) the amount requested from the board for flood control planning; and
- (4) any other information required by the board in its rules or specifically requested by the board.

(d) After notice and hearing, the board may award the applicant all or part of the requested funds that are considered necessary by the board for the political subdivision to carry out adequate flood control planning.

(e) If the board grants an application under this section and awards funds for flood control planning, the board shall enter into a contract with the political subdivision that includes:

(1) a detailed statement of the purpose for which the money is to be used;

(2) the total amount of money to be paid from the research and planning fund under the contract; and

(3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(f) The board shall adopt rules establishing criteria of eligibility for flood control planning money that considers:

(1) the relative need of the political subdivision for the money;

(2) the legal authority of the political subdivision to plan for and control flooding; and

(3) the effect of flood control planning by the political subdivision on overall flood control in the state and within the area in which the political subdivision is located.

(g) The board may require that flood control plans developed under contracts entered into under this section be made available to the department as provided by board rules.

[Acts 1981, 67th Leg., 1st C.S., p. 102, ch. 12, § 1, eff. Nov. 10, 1981.]

CHAPTER 16. PROVISIONS GENERALLY APPLICABLE TO WATER DEVELOPMENT

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. GENERAL PROVISIONS

§ 16.001. Definitions

In this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Water Commission.
- (3) "Chairman" means the chairman of the Texas Water Development Board.
- (4) "Executive director" means the executive director of the Texas Department of Water Resources.
- (5) "Department" means the Texas Department of Water Resources.
- (6) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party.
- (7) "Project" means any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants including any system necessary to transport water from storage to points of distribution, or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers, by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods.
- (8) "Bonds" means all Texas Water Development Bonds now or hereafter authorized by the Texas Constitution.
- (9) "Waste" has the same meaning as provided in Section 26.001 of this code.
- (10) "Water development bonds" means the Texas Water Development Bonds authorized by Section 49-c, as amended, and Section 49-d, as amended, of Article III of the Texas Constitution.
- (11) "Lending rate" means an amount of interest calculated when one-half of one percent is

added to the weighted average net effective interest rate on the three most recent issues of bonds issued under this chapter.

(12) "Net effective interest rate" means the rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.

(13) "State facility" means a project in which the board has acquired an ownership interest.

(14) "Acquisition of a state facility" means the act or series of actions by the board in making payment for a state facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.001 by Acts 1977, 65th Leg., p. 671, ch. 254, § 1.

[Sections 16.002 to 16.010 reserved for expansion]

SUBCHAPTER B. DUTIES OF THE EXECUTIVE DIRECTOR

§ 16.011. General Responsibilities of the Executive Director

The executive director shall determine the responsibilities of each administrative division of the department and its staff in carrying out the authority, duties, and functions provided in this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.012. Studies, Investigations, Surveys

(a) The executive director shall make studies, investigations, and surveys of the occurrence, quantity, quality, and availability of the surface water and groundwater of this state. For these purposes the staff shall collect, receive, analyze, and process basic data concerning the water resources of the state.

(b) The executive director shall:

(1) determine suitable locations for future water facilities, including reservoir sites;

(2) locate land best suited for irrigation;

(3) make estimates of the cost of proposed irrigation works and the improvement of reservoir sites;

(4) examine and survey reservoir sites; and

(5) investigate the effects of fresh water inflows upon the bays and estuaries of Texas.

(c) The executive director shall keep full and proper records of his work, observations, data, and calculations, all of which are the property of the state.

(d) In performing his duties under this section, the executive director shall assist the commission in

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carrying out the purposes and policies stated in Section 12.014 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.013. Engineering, Hydrologic, and Geologic Functions

The executive director shall advise and assist the board and the commission with regard to engineering, hydrologic, and geologic matters concerning the water resources of the state. The executive director shall evaluate, prepare, and publish engineering, hydrologic, and geologic data, information, and reports relating to the water resources of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.014. Silt Load of Streams, Etc.

The executive director shall determine the silt load of streams, make investigations and studies of the duty of water, and make surveys to determine the water needs of the distinct regional divisions of the watershed areas of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.015. Studies of Underground Water Supply

The executive director may make studies and investigations of the physical characteristics of water-bearing formations and of the sources, occurrence, quantity, and quality of the underground water supply of the state and may study and investigate feasible methods to conserve, preserve, improve, and supplement this supply. The work shall first be undertaken in areas where, in the judgment of the board, the greatest need exists, and in determining the need, the board shall consider all beneficial uses essential to the general welfare of the state. Water-bearing formations may be explored by coring or other mechanical or electrical means when the area to be investigated has more than a local influence on water resources.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.016. Pollution of Red River Tributaries

Within the limits of available money and facilities, the executive director shall study salt springs, gypsum beds, and other sources of natural pollution of the tributaries of the Red River and shall study means of eliminating this natural pollution and preventing it from reaching the Red River.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.017. Topographic and Geologic Mapping

The executive director shall carry out the program for topographic and geologic mapping of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.018. Soil Resource Planning

The executive director may contract with the State Soil Conservation Board for joint investigation and research in the field of soil resource planning. The State Soil Conservation Board may appoint a representative to advise and work with the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.019. Cooperative Agreements

With the approval of the board, the executive director may negotiate and execute contracts with persons or with federal, state, or local agencies for joint or cooperative studies and investigations of the occurrence, quantity, and quality of the surface water and groundwater of the state; the topographical mapping of the state; and the collection, processing, and analysis of other basic data relating to the development of the water resources of the state and for the administration and performance of these contracts.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.020. Master Plans of Districts, Etc.

The executive director shall review and analyze master plans and other reports of conservation districts, river authorities, and state agencies and shall make its recommendations to the board or the commission in all cases where approval of the board or commission is required by law or is requested by a district, authority, or agency.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.021. Centralized Data Bank

The executive director shall create a centralized data bank incorporating all hydrological data collected by state agencies.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.022 to 16.050 reserved for expansion]

SUBCHAPTER C. PLANNING

§ 16.051. State Water Plan

(a) The executive director shall prepare, develop, and formulate a comprehensive state water plan.

(b) The plan shall define and designate river basins and watersheds as separate units for the purpose of water development and interwatershed transfers.

(c) The executive director shall be governed in his preparation of the plan by a regard for the public interest of the entire state. The executive director shall direct his efforts toward the orderly development and management of water resources in order that sufficient water will be available at a reason-

able cost to further the economic development of the entire state.

(d) The executive director shall also give consideration in the plan to the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and to the effect of the plan on navigation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.052. Interbasin Water Transfer

The executive director shall not prepare or formulate a plan which contemplates or results in the removal of surface water from the river basin of origin if the water supply involved will be required for reasonably foreseeable water supply requirements within the river basin of origin during the next ensuing 50-year period, except on a temporary, interim basis.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.053. Hearing on Preliminary Plan

(a) After the executive director completes his preliminary planning of the water resources development within a river basin, he shall hold a public hearing, after notice, at some central location within the river basin. If the proposed plan involves the transfer of water from one basin to another, the hearing shall be held at some location convenient to the areas affected.

(b) The executive director shall present the proposed plan of development and hear evidence for and against the plan.

(c) After the hearing, the executive director shall consider the effect the plan will have on the present and future development, economy, general welfare, and water requirements of the river basin or the areas affected.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.054. Hearing on Completed State Water Plan

When the executive director has prepared and examined the completed preliminary plan, the board shall hold a public hearing on the plan to determine whether or not it gives adequate consideration to the protection of existing water rights in this state and whether or not it takes into account modes and procedures for the equitable adjustment of water rights affected by the plan. After the hearing, the board may formally adopt the state water plan. A majority vote is necessary for adoption.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.055. Effect of Plan

(a) The state water plan, as formally adopted by the board, shall be a flexible guide to state policy

for the development of water resources in this state.

(b) The commission shall take the plan into consideration in matters coming before it but is not bound by the plan.

(c) Nothing in the state water plan or any amendment or modification of the plan affects any vested right existing before August 30, 1965.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.056. Amendment of Plan

(a) The board shall amend or modify the plan as experience and changed conditions require after holding a public hearing on any amendment or modification in the manner and for the purposes provided by Section 16.054 of this code.

(b) Any amendment or modification adopted by the board becomes a part of the plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.057. Federal Assistance in Financing Plan

The executive director may take all necessary action to qualify for federal assistance in financing the development and improvement of the plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.058. Studies of Bays and Estuaries

The executive director shall carry out comprehensive studies of the effects of fresh water inflows upon the bays and estuaries of Texas. The studies shall include the development of methods of providing and maintaining the ecological environment thereof suitable to their living marine resources. The studies shall be completed and the results published by December 31, 1979. The General Land Office, the Parks and Wildlife Department, and the Texas Coastal and Marine Council are authorized and directed to assist and cooperate in all possible ways with the department in this undertaking.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.059 to 16.090 reserved for expansion]

SUBCHAPTER D. COOPERATION WITH FEDERAL GOVERNMENT

§ 16.091. Designation of Department

The department is designated as the state agency to cooperate with the Corps of Engineers of the United States Army and the Bureau of Reclamation of the United States Department of the Interior in the planning of water resource development projects in this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.092. Local Sponsors for Projects

(a) When a project is proposed for planning or development by the department, the Corps of Engineers of the United States Army, or the Bureau of Reclamation of the United States Department of the Interior, any political subdivision may apply to the executive director for designation as the cooperating local sponsor of the project.

(b) In the application the applicant shall:

(1) describe the purposes of the project;

(2) state the reasons for the application, the contemplated use of water the applicant might derive from the project if a permit for the use is subsequently granted by the commission; and

(3) cite the contributions the applicant is prepared to make to the planning or development of the project.

(c) No application for designation as a local sponsor shall cover more than one proposed project.

(d) The commission shall prescribe the form to be used in applications for designation as cooperating local sponsor. Before accepting the application, the commission may require that the applicant complete the prescribed form.

(e) Before making any designation of local sponsorship, the commission shall set the application for hearing and give public notice of the hearing. Any interested party may appear and be heard for or against the designation of the applicant as project sponsor.

(f) More than one cooperating local sponsor may be designated for each project, but each applicant must comply with the provisions of this section.

(g) After a public hearing, the commission, by written order, shall grant or reject the application and shall state its reasons. The commission may set a reasonable time period for any sponsorship designation.

(h) In granting any future permit for use of water stored in a project for which it has designated a local sponsor, the commission shall fully recognize that sponsor's contributions to the planning and development of the project.

(i) To the extent that no local cooperator is prepared to undertake local sponsorship of a federal project in whole or part or to the extent that the board has an interest in the project, the board may be designated as sponsor of the project or as an additional cooperating sponsor.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.093 to 16.130 reserved for expansion]

SUBCHAPTER E. ACQUISITION AND DEVELOPMENT OF FACILITIES

§ 16.131. Authorized Projects

The board may use the development fund for projects including the design, acquisition, lease, con-

struction, reconstruction, development, or enlargement in whole or part of any existing or proposed project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.132. Joint Ventures

The board may act singly or in a joint venture in partnership with any person or entity, including any agency or political subdivision of this state, or with another state or its political subdivisions, or with the United States, or with a foreign nation, to the extent permitted by law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.133. Permits Required

The board shall obtain permits from the commission for the storage, transportation, and application to beneficial use of water in reservoirs and associated works constructed by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.134. Storing Water

The board may use any reservoir acquired, leased, constructed, reconstructed, developed, or enlarged by it under this chapter to store unappropriated state water and other water acquired by the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.135. Board Findings

Before the board may acquire storage facilities in any reservoir, the board shall find affirmatively that:

- (1) it is reasonable to expect that the state will recover its investment in the facilities;
- (2) the cost of the facilities exceeds the current financing capabilities of the area involved, and the facilities cannot be reasonably financed by local interests without state participation;
- (3) the public interest will be served by acquisition of the facilities; and
- (4) the facilities to be constructed or reconstructed contemplate the optimum development of the site which is reasonably reserved under all existing circumstances of the site.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.136. Facilities Wanted by Political Subdivision

The board shall not acquire any facility to the extent that the board finds that the political subdivision:

- (1) is willing and reasonably able to finance the acquisition of the facility;
- (2) has qualified by obtaining the necessary permit; and

(3) has proposals that are consistent with the objectives of the state water plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.137. Contracts: General Authority

(a) The board may execute contracts to the full extent that contracts are constitutionally authorized and not limited for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, operation, or maintenance, singularly or in any combination, of any existing or proposed project.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.138. Specific Contracts Authorized

Contracts authorized by Section 16.137 of this code shall include but are not limited to the following:

- (1) contracts secured by the general credit of the state which shall constitute general obligations of the state in the same manner and with the same effect as water development bonds, and principal and interest on these contracts shall be paid in the manner provided for payment of principal and interest on state bonds by the constitution;
- (2) federal grants or grants from other sources;
- (3) contracts which may be fully or partially secured by water purchase or repayment contracts executed by political subdivisions of the state for purchase of water and facilities necessary to supply present and future regional and local water requirements;
- (4) contracts with any person, including but not limited to the United States, local public agencies, power cooperatives, and investor-owned utilities, for financing, constructing, and operating facilities to operate and deliver pumping energy required for projects; and
- (5) contracts for goods and services necessary for the design, management, acquisition, lease, construction, reconstruction, development, enlargement, implementation, operation, or maintenance of any existing or proposed project or portion of the project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.139. Contracts: Facilities Acquired for a Term of Years

If facilities are acquired for a term of years, the board may include in the contract provisions for renewal that will protect the state's investment.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.140. Maintenance Contracts

The board may execute contracts for the operation and maintenance of the state's interest in any project and may agree to pay reasonable operation and maintenance charges allocable to the state interest.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.141. Recreational Facilities

The board may execute contracts with the United States and with state agencies and political subdivisions and with others to the extent authorized for the development and operation of recreational facilities at any project in which the state has acquired an interest. Income received by the board under these contracts may be used for the same purposes as income from the sale of water. The legislature may appropriate money for the development and operation of recreational facilities at projects in which the state has acquired an interest.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.142 to 16.180 reserved for expansion]

**SUBCHAPTER F. SALE OR LEASE
OF FACILITIES**

§ 16.181. Board May Sell or Lease Projects

(a) The board may sell, transfer, or lease, to the extent of its ownership, a project acquired, constructed, reconstructed, developed, or enlarged with money from the water development account.

(b) The board shall obtain the approval of the attorney general as to the legality of all contracts authorized under this subchapter to which the board is a party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.182. Permit Required

Before the board grants the application to buy, receive, or lease the facilities, the applicant shall first secure a permit for water use from the commission. If the facilities are to be leased, the permit may be for a term of years.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.183. Permit: Paramount Consideration of Commission

In passing on an application for a permit under this subchapter whether it proposes a use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.184. Contract Must be Negotiated

The commission shall not issue the permit until the applicant has executed a contract with the board for acquisition of the facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.185. Reservoir Land

The board may lease acquired reservoir land until construction of the dam is completed without the necessity of a permit issued by the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.186. Price of Sale

(a) The price of the sale or transfer of a state facility acquired prior to September 1, 1977, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated when one-half of one percent is added to the weighted average effective interest rate in effect at the date of sale or transfer of the state facility times the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of purchase or acquisition to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1977, other than a facility acquired under a contract with the United States, shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the date of acquisition by the amount of board money disbursed for the acquisition times the number of years and fraction of a year from the date or dates of the purchase or acquisition to the date or dates of the sale or transfer of the state facility, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(c) The purchaser of the board's interest in a state facility shall also assume, to the extent disclosed by the board at or prior to the sale, any and all direct, conditional, or contingent liabilities of the board attributed to the project in direct relation to the percentage of the project acquired by the purchaser.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.356 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

§ 16.187. Price of Sale: Facilities Acquired under Contracts with the United States

(a) The price of the sale or transfer of a facility acquired prior to September 1, 1977, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by adding one-half of one percent to the weighted average effective interest rate in effect at the date of the sale or transfer of the state facility times the amount of board money disbursed for the acquisition times the number of years and fraction of a year for which the board paid interest to the other party to the contract, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer, less any payments received by the board from the lease of the facility or the sale of water from it.

(b) The price of the sale or transfer of a state facility acquired on or subsequent to September 1, 1977, under a contract with the United States shall be the sum of the direct cost of acquisition, plus an amount of interest calculated by multiplying the lending rate in effect at the time of acquisition by the amount of board money disbursed for the acquisition of the facility times the number of years and fraction of a year from the date or dates of purchase or acquisition to the date or dates of sale or transfer, plus the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility, less any payments received by the board from the lease of the facility or the sale of water from it.

(c) If, in transferring any contract, the board remains in any way directly, conditionally, or contingently liable for the performance of any part of the contract, then the transferee, in addition to the payments prescribed by Subsection (a) or (b) of this section, as applicable, shall pay to the board annually one-half of one percent of the remaining amount owed to the other party to the contract, and shall continue these payments until the board is fully released from the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.357 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

[§ 16.1871.]¹ Acquisition Date

(a) If the board has made an initial payment prior to September 1, 1977, to acquire a state facility, other than a facility acquired under a contract with the United States, the state facility shall be deemed to have been acquired prior to September 1, 1977, for purposes of Section 11.356 of this code.² If the board makes its initial payment on or after September 1, 1977, to acquire a state facility, other than a facility acquired under a contract with the United States, the state facility shall be deemed to have been acquired on or after September 1, 1977, for purposes of Section 11.356 of this code.

(b) If the board has executed a contract with the United States prior to September 1, 1977, to purchase a state facility, the state facility shall be deemed to have been acquired prior to September 1, 1977, for purposes of Section 11.357³ of this code. If the board executes a contract with the United States on or after September 1, 1977, to purchase a state facility, the state facility shall be deemed to have been acquired on or after September 1, 1977, for purposes of Section 11.357 of this code.

[Acts 1977, 65th Leg., p. 673, ch. 254, § 3, eff. May 25, 1977.]

¹ Enacted as § 11.3571 by Acts 1977, 65th Leg., p. 673, ch. 254, § 3 and editorially reclassified.

² See, now, § 16.186.

³ See, now, § 16.187.

§ 16.188. Costs Defined

With reference to the sale of a state facility, "direct cost of acquisition" means the principal amount the board has paid or agreed to pay for a facility up to the date of sale, but does not include the board's cost of operating and maintaining the facility from the date of acquisition to the date of the sale or transfer of the facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.358 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

§ 16.189. Lease Payments

In leasing a state facility for a term of years, the board shall require annual payments not less than the total of:

- (1) the annual principal and interest requirements applicable to the debt incurred by the state in acquiring the facility; and
- (2) the state's annual cost for operation, maintenance, and rehabilitation of the facility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.190. Sale or Lease: Condition Precedent

(a) No sale, transfer, or lease of a state facility is valid unless the board first makes the following affirmative findings:

- (1) that the applicant has a permit granted by the commission;
- (2) that the sale, transfer, or lease will contribute to the conservation and development of the water resources of the state; and
- (3) that the consideration for the sale, transfer, or lease is fair, just, and reasonable and in full compliance with the law.

(b) The consideration for any such sale or transfer may be either money or revenue bonds, which revenue bonds for the purposes hereof shall be deemed the same as money.

(c) The amount of money shall be equal to the price for purchasing the facilities as prescribed by the provisions of Section 16.187 of this code, or if

revenue bonds constitute the consideration, the principal amount of revenue bonds shall be equal to the price for purchasing the facilities as prescribed by the provisions of Section 16.187 of this code, and such revenue bonds shall bear interest at the rate prescribed in Section 17.128 of this code with regard to bonds purchased with the proceeds of the Texas Water Development Fund.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.191. Disposition of Proceeds

(a) The money received from any sale, transfer, or lease of facilities as cash, or in the case of a sale or transfer involving revenue bonds, the money received as matured interest or principal on the bonds shall be used to pay the principal of and interest on water development bonds or to meet contractual obligations incurred by the board. The money shall be collected and credited to the proper special fund as is money received in payment of principal and interest on loans to political subdivisions under this code, taking into consideration the manner in which the facilities were acquired.

(b) When enough money has been collected to pay all outstanding indebtedness, including the principal of all state bonds and contractual obligations and the full amount of interest to accrue on these debts, the board may use any further amounts received from the sale, transfer, or lease of facilities to acquire additional facilities or to provide assistance to political subdivisions for water supply projects.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.192. Sale of Stored Water

The board may sell any unappropriated public water of the state and other water acquired by the state that is stored by or for it. The price will be determined by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.193. Permit

(a) The board may not sell the water stored in a facility to any person who has not obtained a permit from the commission. The rights of the applicant in the water are governed by the terms and conditions of the permit. The permit may be for a term of years.

(b) Whether the application for a permit involves a proposed use of water inside or outside the watershed of the impoundment, the commission shall give paramount consideration to recouping the state's investment in order to protect the public interest and promote the general welfare.

(c) The permit shall be conditioned on continued payment of the obligations assumed under the con-

tract with the board and may provide for cancellation at any time on breach of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.194. Sale Contract: Provisions, Limitations

(a) The board may determine the consideration and other provisions to be included in water sale contracts, but the consideration and other provisions shall be fair, reasonable, and nondiscriminatory. The board may include charges for standby service, which means holding water and conservation storage space for use and for actual delivery of water.

(b) The board shall make the same determinations with respect to the sale of water as are required in Section 16.190 of this code with respect to the sale or lease of facilities.

(c) The board shall not compete with any political subdivision in the sale of water when this competition jeopardizes the ability of the political subdivision to meet obligations incurred to finance its own water supply projects.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.195. Emergency Releases of Water

Unappropriated water and other water of the state stored in any facility acquired by and under the control of the board may be released without charge to relieve any emergency condition arising from drought, severe water shortage, or public calamity, if the commission first determines the existence of the emergency and requests the board to release water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.196. Preferences

The board shall give political subdivisions a preferential right, but not an exclusive right, to purchase, acquire, or lease facilities and to purchase water from facilities. Preferences shall be given in these respects in accord with the provisions of Section 11.123 of this code relating to preferences in the appropriation and use of state water. The board and the commission shall coordinate their efforts to meet these objectives and to assure that the public water of this state, which is held in trust for the use and benefit of the public, will be conserved, developed, and utilized in the greatest practicable measure for the public welfare.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.197. Lease of Land Prior to Project Construction

The board may lease tracts of land acquired for project purposes for a term of years for any purpose not inconsistent with ultimate project construc-

tion. The lease shall be scheduled to expire before initiation of project construction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.198. Lease Contributions Equivalent to Taxes

The lease may provide for contribution by the lessee to units of local government of amounts equivalent to ad valorem taxes or special assessments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.199 to 16.230 reserved for expansion]

SUBCHAPTER G. IMPROVEMENTS

§ 16.231. Design of Improvements or System of Improvements

Insofar as possible, improvements necessary to reclaim overflowed land, swampland, and other land in this state that is not suitable for use because of temporary or permanent excessive accumulation of water on or contiguous to the land for agricultural or other use shall be designed with primary consideration to the topographic and hydrographic conditions and in such a manner that each division of a project shall be a complete, united project forming a coordinate part of an ultimately finished series of projects so constituted that the successful operation of each united project shall coordinate with the successful operation of other projects within the same hydraulic influence.

[Formerly § 16.233, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered and amended by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

Former § 16.231, relating to purpose of this subchapter, was derived from Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, and was deleted by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8.

§ 16.232. Location of Projects; Reports

The executive director shall maintain files reflecting engineering reports, studies, drawings, and staff findings and recommendations pertaining to the location and effect of reclamation projects.

[Formerly § 16.234, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered and amended by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

Former § 16.232, relating to surveys and planning, was derived from Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, and was deleted by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8.

§ 16.233. Cooperation With Other Agencies

In performing his functions, the executive director may confer with federal and state agencies and with political subdivisions and, with the approval of the board, may execute cooperative agreements with them. The executive director may can-

cel any such agreement on 10 days notice to the other party.

[Formerly § 16.235, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

§ 16.234. Advice to Districts

The executive director shall confer with districts requesting technical advice on the adequate execution of proposed levee and drainage improvements.

[Formerly § 16.236, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

§ 16.235. Districts to File Information With Department

Immediately before having its bonds approved by the attorney general, each drainage district and levee improvement district shall file with the department, on forms furnished by the department, a complete record showing each step in the organization of the district, the amount of bonds to be issued, and a description of the area and boundaries of the district, accompanied by plans, maps, and profiles of improvements and the district engineer's estimates and reports on them.

[Formerly § 16.237, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

§ 16.236. Construction of Levee Without Approval of Plans

(a) No person may construct, attempt to construct, cause to be constructed, maintain, or cause to be maintained any levee or other such improvement on, along, or near any stream of this state that is subject to floods, freshets, or overflows so as to control, regulate, or otherwise change the floodwater of the stream without first obtaining approval of the plans by the commission.

(b) Any person who violates any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100. A separate offense is committed each day a structure constructed in violation of this section is maintained.

(c) At the request of the executive director, the attorney general shall file suit in a district court of Travis County to enjoin any violation or threatened violation of this section. In the suit, the attorney general may seek to have the illegal levee or other improvement removed and the preexisting conditions restored and may also collect civil penalties of up to \$100 a day for each day a violation occurs.

(d) This section does not apply to:

(1) dams permitted by the commission or recognized as valid by final decree in any proceeding begun under Subchapter G, Chapter 11, of this code;¹

(2) dams authorized by Section 11.142 of this code;

(3) a levee or other improvement within the corporate limits of a city or town provided: (a) plans for the construction or maintenance or both must be approved by the city or town as a condition precedent to starting the project and (b) the city or town requires that such plans be in substantial compliance with rules and standards adopted by the board; or

(4) a levee or other improvement within the boundaries of any political subdivision which has qualified for the National Flood Insurance Program as authorized by the National Flood Insurance Act of 1968 (Title 42, U.S.C., Sections 4001-4127) provided: (a) plans for the construction or maintenance or both must be approved by the political subdivision which is participating in the national flood insurance program as a condition precedent to starting the project and (b) the political subdivision requires that such plans be in substantial compliance with rules and standards adopted by the board;

(5) projects implementing soil and water conservation practices set forth in a conservation plan with a landowner or operator and approved by the governing board of a soil and water conservation district organized under the State Soil Conservation Law, as amended (Article 165a-4, Vernon's Texas Civil Statutes),² provided that the governing board finds the practices do not significantly affect stream flooding conditions on, along, or near a state stream.

(e) On projects located within the corporate limits of a city or town or within the boundaries of any political subdivision which are exempt from the provisions of this section by Subdivision (3) or (4) of Subsection (d) above, any person whose property is located outside of the corporate limits of such city or town or of the boundaries of such a political subdivision and whose property is affected or potentially affected by the effect of the project on the floodwaters of the stream may appeal the decision of such political subdivision. The appeal shall be in writing and shall specify the grounds therefor and a copy shall be sent by certified mail to the project applicant and to the city or town or such political subdivision. The timely filing of such an appeal with the executive director suspends the decision of the city or town or political subdivision until a final decision is rendered by the department. The executive director shall review the complaint and investigate the facts surrounding the nature of the complaint. If the executive director finds that the complaint is frivolous or nonmeritorious or made solely for purposes of harassment or delay, then he shall dismiss the appeal. Otherwise, the executive director shall refer the appeal to the commission which shall after due notice hold a hearing to determine whether the project should be approved using the standards established by the department and shall hear such appeal de novo under the procedural

rules established by the commission for other reclamation projects.

[Formerly § 16.238, amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1375, ch. 615, § 1, eff. Aug. 27, 1979. Renumbered by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981.]

¹ Section 11.301 et seq.

² Repealed; see, now, Agriculture Code, § 201.001 et seq.

Section 2 of the 1979 amendatory act provided:

"However, this section does not apply to any stream which constitutes or defines the international boundary between the United State of America and the Republic of Mexico."

§§ 16.237, 16.238. Renumbered as §§ 16.235, 16.236 by Acts 1981, 67th Leg., p. 3156, ch. 828, § 8, eff. June 17, 1981

[Sections 16.239 to 16.270 reserved for expansion]

SUBCHAPTER H. NAVIGATION FACILITIES

§ 16.271. Improvement of Streams and Canals and Construction of Facilities Within Cypress Creek Drainage Basin

The board may improve streams and canals and construct all waterways and other facilities necessary to provide for navigation within the Cypress Creek drainage basin which is located in the north-east portion of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.272. Long-Term Contracts With the United States

The board may execute long-term contracts with the United States or any of its agencies for the acquisition and development of improvements and facilities under Section 16.271 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.273. Temporary Authority to Act for District

The board may act in behalf of a local district or districts until they can take over the project or projects in accordance with the board's agreement with the district or districts in acting as the sponsor.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 16.274 to 16.310 reserved for expansion]

SUBCHAPTER I. FLOOD INSURANCE

§ 16.311. Short Title

This subchapter may be cited as the Flood Control and Insurance Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.312. Purpose

The State of Texas recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing the burden of the nation's resources, congress enacted the National Flood Insurance Act of 1968, as amended (42 U.S.C. Sections 4001 through 4127), whereby flood insurance can be made available through coordinated efforts of the federal government and the private insurance industry, by pooling risks, and the positive cooperation of state and local government. The purpose of this subchapter is to evidence a positive interest in securing flood insurance coverage under this federal program and to so procure for those citizens of Texas desiring to participate and in promoting the public interest by providing appropriate protection against the perils of flood losses and in encouraging sound land use by minimizing exposure of property to flood losses.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.313. Definitions

In this subchapter:

(1) "Political subdivision" means any political subdivision or body politic and corporate of the State of Texas and includes any county, river authority, conservation and reclamation district, water control and improvement district, water improvement district, water control and preservation district, fresh water supply district, irrigation district, and any type of district heretofore or hereafter created or organized or authorized to be created or organized pursuant to the provisions of Article XVI, Section 59 or Article III, Section 52 of the Constitution of the State of Texas; "political subdivision" also means any interstate compact commission to which the State of Texas is a party, municipal corporation, or city whether operating under the Home Rule Amendment of the Constitution or under the General Law.

(2) "National Flood Insurance Act" means the National Flood Insurance Act of 1968, as amended (42 U.S.C. Sections 4001 through 4127), and the implementation and administration of the Act by the Secretary of the United States Department of Housing and Urban Development.

(3) "Secretary" means the Secretary of the United States Department of Housing and Urban Development.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.314. Cooperation of Texas Department of Water Resources

In recognition of the necessity for a coordinated effort at all levels of government, the department shall cooperate with the Federal Insurance Adminis-

trator of the United States Department of Housing and Urban Development in the planning and carrying out of state participation in the National Flood Insurance Program; however, the responsibility for qualifying for the National Flood Insurance Program shall belong to any interested political subdivision, whether presently in existence or created in the future.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.315. Political Subdivisions; Compliance With Federal Requirements

All political subdivisions are hereby authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program, including but not limited to:

- (1) making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;
- (2) guiding the development of proposed future construction, where practicable, away from location which is threatened by flood hazards;
- (3) assisting in minimizing damage caused by floods;
- (4) authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;
- (5) engaging in floodplain management and adopting enforcing permanent land use and control measures consistent with the criteria established under the National Flood Insurance Act;
- (6) declaring property, when such is the case, to be in violation of local laws, regulations, or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas and notifying the secretary, or whomever he designates, of such property;
- (7) consulting with, giving information to, and entering into agreements with the Department of Housing and Urban Development for the purpose of:
 - (A) identifying and publishing information with respect to all flood areas, including coastal areas; and
 - (B) establishing flood-risk zones in all such areas and making estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;
- (8) cooperating with the secretary's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;
- (9) taking steps to improve the long-range management and use of flood-prone areas;
- (10) purchasing, leasing, and receiving property from the secretary when such property is owned

by the federal government and lies within the boundaries of the political subdivision pursuant to agreements with the Department of Housing and Urban Development or other appropriate legal representative of the United States Government;

(11) requesting aid pursuant to the entire authorization from the board;

(12) satisfying criteria adopted and promulgated by the department pursuant to the National Flood Insurance Program; and

(13) adopting permanent land use and control measures with enforcement provisions which are consistent with the criteria for land management and use adopted by the secretary.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.316. Coordination of Local, State, and Federal Programs by Department

(a) The department shall aid, advise, and coordinate the efforts of present and future political subdivisions endeavoring to qualify for participation in the National Flood Insurance Program.

(b) Pursuant to the National Flood Insurance Program and state and local efforts complementing the program, the department shall aid, advise, and cooperate with political subdivisions, the State Board of Insurance, and the United States Department of Housing and Urban Development when aid, advice, and cooperation are requested or deemed advisable by the board.

(c) The aforementioned aid may include but is not necessarily limited to:

(1) coordinating local, state, and federal programs relating to floods, flood losses, and floodplain management;

(2) evaluating the present structure of all federal, state, and political subdivision flood control programs within or adjacent to the state, including an assessment of the extent to which public and private floodplain management activities have been instituted;

(3) carrying out studies with respect to the adequacy of present public and private measures, laws, regulations, and ordinances in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;

(4) evaluating all available engineering, hydrologic, and geologic data relevant to flood-prone areas and flood control in those areas; and

(5) carrying out floodplain studies and mapping programs of floodplains, flood-prone areas, and flood-risk zones.

(d) On the basis of such studies and evaluations, the department, to the extent of its capabilities, shall periodically identify and publish information and maps with respect to all floodplain areas, including the state's coastal area, which have flood hazards, and where possible aid the federal govern-

ment in identifying and establishing flood-risk zones in all such areas.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.317. Cooperation of State Board of Insurance

Pursuant to the National Flood Insurance Program, the State Board of Insurance shall aid, advise, and cooperate with political subdivisions, the department, and the United States Department of Housing and Urban Development when such aid, advice, and cooperation are requested or deemed advisable by the State Board of Insurance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.318. Rules

Political subdivisions which qualify for the National Flood Insurance Program, the State Board of Insurance, and the board may adopt and promulgate reasonable rules which are necessary for the orderly effectuation of the respective authorizations herein.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 16.319. Qualification

Political subdivisions wishing to qualify under the National Flood Insurance Program shall have the authority to do so by complying with the directions of the Department of Housing and Urban Development and by:

(1) evidencing to the secretary a positive interest in securing flood insurance coverage under the National Flood Insurance Program; and

(2) giving to the secretary satisfactory assurance that measures will have been adopted for the political subdivision which measures will be consistent with the comprehensive criteria for land management and use developed by the Department of Housing and Urban Development, and that the application and enforcement of such measures will commence as soon as technical information on floodways and on controlling elevations is available.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1977, 65th Leg., 1st C.S., p. 58, ch. 4, § 3, eff. Sept. 1, 1977.]

Section 2 of Acts 1977, 65th Leg., 1st C.S., p. 58, ch. 4, provided:

"All proceedings and actions of any political subdivision as defined in the Flood Control and Insurance Act with respect to participation in and compliance with the National Flood Insurance Program under the Flood Control and Insurance Act are in all things and all respects ratified, confirmed, approved, and validated even though these proceedings and actions may not have occurred within the time limit provided in the Flood Control and Insurance Act; provided, however, that any proceeding or action taken under the Flood Control and Insurance Act by a political subdivision which took action to qualify under Section 9 of that Act after June 30, 1970, and before the effective date of this Act shall expire on the 60th day after the effective date of this Act unless the proceeding or action is reenacted by the governing body of the

political subdivision after the effective date of this Act and before the 60th day after the effective date of this Act."

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. GENERAL PROVISIONS

§ 17.001. Definitions

In this chapter:

- (1) "Board" means the Texas Water Development Board.
- (2) "Commission" means the Texas Water Commission.
- (3) "Executive director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means Texas Department of Water Resources.

(5) "Political subdivision" means a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party.

(6) "Project" means any engineering undertaking or work to conserve and develop surface or subsurface water resources of the state, including the control, storage, and preservation of its storm water and floodwater and the water of its rivers and streams for all useful and lawful purposes by the acquisition, improvement, extension, or construction of dams, reservoirs, and other water storage projects, including underground storage projects, filtration and water treatment plants, including any system necessary to transport water from storage to points of distribution or from storage to filtration and treatment plants, including facilities for transporting water therefrom to wholesale purchasers by the acquisition, by purchase of rights in underground water, by the drilling of wells, or for any one or more of these purposes or methods.

(7) "Weighted average effective interest rate" means the rate of interest computed by dividing the total value of all coupons attached to the pertinent bonds issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond previously issued.

(8) "Bonds" means all Texas Water Development Bonds now or hereafter authorized by the Texas Constitution.

(9) "Waste" has the same meaning as provided in Section 26.001 of this code.

(10) "Water development bonds" means the Texas Water Development Bonds authorized by Section 49-c, as amended, and Section 49-d, as amended, of Article III of the Texas Constitution.

(11) "Water quality enhancement bonds" means the Texas Water Development Bonds authorized by Section 49-d-1, as amended, of Article III of the Texas Constitution.

(12) "Lending rate" means an amount of interest calculated by adding one-half percent to the weighted average of the cost of uncommitted funds secured from the sale of Texas Water Development Bonds as of the date of the latest sale of Texas Water Development Bonds.

(13) "Net effective interest rate" means the rate of interest computed by dividing the total value of all interest coupons attached to the bonds included in an issue issued under this chapter, after deducting all premiums and adding all discounts involved, by the total number of years from the date of issuance to the date of maturity of each bond included in the issue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Acts 1981, 67th Leg., p. 3155, ch. 828, § 4, eff. June 17, 1981.]

The text of this section incorporates the amendment to former § 11.001 by Acts 1977, 65th Leg., p. 671, ch. 254, § 1.

[Sections 17.002 to 17.010 reserved for expansion]

SUBCHAPTER B. WATER DEVELOPMENT BONDS

§ 17.011. Issuance of Water Development Bonds

(a) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount not to exceed \$400 million pursuant to the provisions of Article III, Section 49-c and Section 49-d, as amended, of the Texas Constitution, and the issuance of additional negotiable bonds in an aggregate amount not to exceed \$200 million pursuant to the provisions of Article III, Section 49-d-1, as amended, of the Texas Constitution.

(b) The board, by resolution, from time to time may provide for the issuance of negotiable bonds in an aggregate amount of not to exceed the total principal amount the board has obligated the Texas Water Development Fund for the acquisition of storage facilities by the execution of a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, and to the extent the bond proceeds are utilized to reduce the board's obligation under a contract with the United States or any of its agencies under Article III, Section 49-d, of the Texas Constitution, the bonds may not be considered in determining the aggregate amount of bonds issued under Article III, Sections 49-c and 49-d, of the Texas Constitution, in addition to the contract with the United States or any of its agencies.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

The text of this section incorporates the amendment to former § 11.141 by Acts 1977, 65th Leg., p. 941, ch. 352, § 1.

§ 17.012. Description of Bonds

The bonds shall be on a parity and shall be called Texas Water Development Bonds. The board may issue them in one or several installments and shall date the bonds of each issue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.013. Sale Price of Bonds

The board may not sell an installment or series of bonds for an amount less than the face value of all of the bonds comprising the installment or series with accrued interest from their date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.014. Interest on Bonds

The bonds of each issue shall bear interest payable annually or semi-annually at the option of the board.

§ 17.015. Form, Denomination, Place of Payment

The board shall:

- (1) determine the form of the bonds, including the form of any interest coupons to be attached;
- (2) fix the denomination of the bonds; and
- (3) fix the places of payment of the principal and interest.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.016. Maturity of Bonds

The bonds of each issue shall mature, serially or otherwise, not more than 50 years from their date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.017. Redemption Before Maturity

In the resolution providing for the issuance of bonds, the board may fix the price, terms, and conditions for redemption of bonds before maturity.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.018. Registered and Bearer Bonds

The resolution may provide for registration of the bonds as to ownership, successive conversion and reconversion from registered to bearer bonds, and successive conversion and reconversion from bearer to registered bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.019. Notice of Bond Sale

After the board decides to call for bids for the sale of bonds, the board shall publish an appropriate notice of the sale at least one time in one or more recognized financial publications of general circulation published within the state and one or more recognized financial publications published outside the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.020. Competitive Bids

The board shall sell the bonds only after competitive bidding to the highest and best bidder. The board may reject any or all bids.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.021. Security for Bids

The board shall require every bidder, except administrators of state funds, to include with the bid an exchange or cashier's check for a sum the board considers adequate as a forfeit guaranteeing accept-

ance of and payment for all bonds covered by the bids and accepted by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.022. Approval of Bonds; Registration

Before bonds are delivered to the purchasers, the bonds and the record pertaining to their issuance shall be submitted to the attorney general for his approval. When the attorney general's approval is obtained, the bonds shall be registered in the office of the state comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.023. Execution of Bonds

The bonds shall be executed on behalf of the board as general obligations of the state in the following manner: the chairman of the board and the development fund manager shall sign the bonds; the board shall impress its seal on the bonds; the governor shall sign the bonds; and the Secretary of State shall attest the bonds and impress on them the state seal.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.024. Facsimile Signatures and Seals

The resolution authorizing the issuance of an installment or series of bonds may prescribe the extent to which the board in executing the bonds and appurtenant coupons may use facsimile signatures and facsimile seals instead of manual signatures and manually impressed seals. Interest coupons may be signed by the facsimile signatures of the chairman of the board and the development fund manager.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.025. Signature of Former Officer

If an officer whose manual or facsimile signature appears on a bond or whose facsimile signature appears on any coupon ceases to be an officer before the bond is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.026. Bonds Incontestable

After approval by the attorney general, registration by the comptroller, and delivery to the purchasers, the bonds are incontestable and constitute general obligations of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.027. Payment by Treasurer

The State Treasurer shall pay the principal of the bonds as they mature and the interest as it becomes payable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.028. Payment Enforceable by Mandamus

Payment of the bonds and performance of official duties prescribed by Article III, Section 49-c, Section 49-d, as amended, and Section 49-d-1, as amended, of the Texas Constitution and by the provisions of this subchapter may be enforced in any court of competent jurisdiction by mandamus or other appropriate proceeding.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.029. Refunding Bonds

The board may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this chapter and their accrued interest. The board may sell these bonds and use the proceeds to retire the outstanding bonds issued under this chapter, or the board may exchange the refunding bonds for the outstanding bonds. The issuance of the refunding bonds, their maturity, the rights of the bondholders, and the duties of the board with respect to refunding bonds are governed by the provisions of this chapter relating to original bonds to the extent that they may be made applicable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.030. Bonds Negotiable Instruments

The bonds issued under the provisions of this chapter are negotiable instruments under the laws of this state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.031. Bonds Not Taxable

Bonds issued under this chapter, the income from the bonds, and the profit made on their sale are free from taxation within the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.032. Authorized Investments

Bonds issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees;
- (8) guardians; and

(9) sinking funds of cities, towns, villages, counties, school districts, and other political subdivisions and public agencies of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.033. Security for Deposit of Funds

Bonds issued under this chapter when accompanied by all appurtenant unmatured coupons are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political subdivision of the state at the par value of the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.034. Mutilated, Lost, Destroyed Bonds

The board may provide for the replacement of any mutilated, lost, or destroyed bond.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 17.035 to 17.070 reserved for expansion]

SUBCHAPTER C. FUNDING PROVISIONS**§ 17.071. Disposition of Money Received**

All money received by the board shall be deposited in the State Treasury and credited to the proper special fund as provided in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.072. Development Fund

(a) The Texas Water Development Fund, referred to as the "development fund," is a special revolving fund in the State Treasury.

(b) All proceeds from the sale of water development bonds, together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding, or prepayment of political subdivision bonds acquired in carrying out the purposes set out in article III, Sections 49-c and 49-d, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water development account," and other money for deposit therein as provided in this chapter shall be credited to the water development account.

(c) The water development account may be used for any project and in any manner consistent with the provisions of the constitution, but the development fund may not be used for retail distribution or for transportation of water solely to retail purchasers.

(d) All proceeds from the sale of water quality enhancement bonds, together with all proceeds (excluding accrued interest which shall be deposited into the interest and sinking fund) from the sale, refunding, or prepayment of political subdivision

bonds acquired in carrying out the purposes in Article III, Section 49-d-1, of the Texas Constitution, shall be deposited in a special account in the development fund designated "water quality enhancement account," and other money for deposit therein as provided in this chapter shall be credited to the water quality enhancement account.

(e) The water quality enhancement account may be used for construction of treatment works in any manner consistent with the provisions of the constitution and this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3155, ch. 828, § 5, eff. June 17, 1981.]

§ 17.073. Water Development Clearance Fund

The Texas Water Development Clearance Fund, referred to as the "clearance fund," is a special fund in the State Treasury. Transfers shall be made from this fund as provided by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.074. Interest and Sinking Fund

The Texas Water Development Bonds Interest and Sinking Fund, referred to as the "interest and sinking fund," is a special fund in the State Treasury into which there shall be paid, from sources specified in this chapter, amounts sufficient to:

- (1) pay the interest coming due on all outstanding bonds during the ensuing fiscal year;
- (2) pay the principal on all bonds that mature during the ensuing fiscal year, plus collection charges and exchanges on the bonds; and
- (3) establish a reserve equal to the average annual principal and interest requirements on all outstanding bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.075. Administrative Fund

The Texas Water Development Board Administrative Fund, referred to as the "administrative fund," is a special fund in the State Treasury. From sources specified in this chapter, money shall be credited to this fund in amounts sufficient to pay the administrative expenses of the board as authorized by legislative appropriation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.076. Combined Facilities Operation and Maintenance Fund

(a) The Combined Facilities Operation and Maintenance Fund is a special fund in the State Treasury.

(b) Money received from the sale of water, standby service, and the lease of land needed for operation and maintenance of facilities shall be credited to this fund. Any of the money which is not needed

for operation and maintenance of facilities may be credited to the interest and sinking fund or used to meet contractual obligations incurred by the board in acquiring facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.077. Credits to Clearance Fund

Except for proceeds from the sale of bonds and proceeds from the sale, refunding, or prepayment, of political subdivision bonds acquired in carrying out the purposes in Article III, Sections 49-c, 49-d, and 49-d-1, of the Texas Constitution, which shall be deposited in accordance with Sections 17.072, 17.134, and 17.180 of this code, and the proceeds from the sale, refinancing, or other liquidation of the investments made under Sections 17.083, 17.085, and 17.086 of this code which shall be deposited in the fund that provided the money for the investment, all money received by the board in any fiscal year, including all amounts received as repayment of loans to political subdivisions and interest on those loans, shall be credited to the clearance fund. Money in the clearance fund may be transferred at any time to the interest and sinking fund until the reserve in that fund is equal to the average annual principal and interest requirements on all outstanding bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 17.078. Transfers at End of Fiscal Year

Not later than 15 days after the end of each fiscal year, any money credited to the clearance fund at the end of the fiscal year shall be transferred to the other special funds as prescribed by Sections 17.079 through 17.082 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.079. Transfers to Interest and Sinking Fund

(a) The board shall determine:

- (1) the amount of interest coming due on all bonds outstanding;
- (2) the amount of principal of bonds maturing and becoming payable during the fiscal year; and
- (3) the average annual principal and interest requirements on all outstanding bonds.

(b) The comptroller shall transfer to the interest and sinking fund, after taking into account any money and securities on deposit in the interest and sinking fund, an amount necessary to pay:

- (1) all principal and interest maturing on the bonds during the fiscal year;
- (2) all collection charges and exchanges on the bonds; and
- (3) the money sufficient to establish and maintain an additional reserve equal to the average

annual principal and interest requirements on all outstanding bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.080. Additional Funds for Payment of Bonds

If the amount transferred from the clearance fund plus the money and securities in the interest and sinking fund are insufficient to pay the interest coming due and the principal maturing on the bonds during the fiscal year, then after the transfer to the interest and sinking fund of as much money as is available in the clearance fund, the State Treasurer shall transfer out of the first money coming into the treasury, not otherwise appropriated by the constitution, the amount required to pay principal and interest on the bonds during the fiscal year.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.081. Transfers to Administrative Fund

If money remains in the clearance fund after making the transfers provided in section 17.079 of this code, then to the extent possible the comptroller shall transfer to the administrative fund an amount sufficient to cover the legislative appropriation for administrative expenses of the board for the fiscal year.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.082. Transfers to Development Fund

If money remains in the clearance fund after making the transfers provided in Sections 17.079 and 17.081 of this code, the comptroller shall transfer the balance to the appropriate account in the development fund at the end of each fiscal year to be used for any purpose for which proceeds of bonds in such account may be used.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.083. Investment of Reserve Money

The board may invest any money credited to the reserve portion of the interest and sinking fund in:

- (1) direct obligations of the United States;
- (2) other obligations unconditionally guaranteed by the United States;
- (3) bonds of the State of Texas; and
- (4) bonds of counties, cities, and other political subdivisions of the state, except bonds issued by a political subdivision to finance a project or treatment works described in this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.084. Limitation on Board Investment

The board is bound to the extent that the resolution authorizing the issuance of the bonds further

restricts the investment of money in bonds of the United States.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.085. Interest and Sinking Fund Investments

The board may invest the money in the interest and sinking fund, except the money in the reserve portion of the fund, only in direct obligations of the United States or obligations unconditionally guaranteed by the United States that are scheduled to mature prior to the date the board must have money available for its intended purpose.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.086. Development Fund Investments

Surplus money in the development fund that is not needed for at least 90 days shall be invested in direct obligations of the United States or in other obligations unconditionally guaranteed by the United States maturing on or before the contemplated date on which the money will be needed.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.087. Sale of Securities

All of the bonds and obligations owned in the interest and sinking fund or in the development fund are defined as securities. The board may sell securities owned in the interest and sinking fund or in any account in the development fund at the governing market price.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.088. Transfers to be Made by Comptroller

The comptroller shall make the transfers required by this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 17.089 to 17.120 reserved for expansion]

SUBCHAPTER D. ASSISTANCE TO POLITICAL SUBDIVISIONS FOR PROJECTS

§ 17.121. Financial Assistance

The water development account may be used by the board to provide financial assistance to political subdivisions for the construction, acquisition, or improvement of projects.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 17.122. Application for Assistance

(a) In an application to the board for financial assistance, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;

- (2) a citation of the law under which the political subdivision operates and was created;
- (3) the total cost of the project;
- (4) the amount of state financial assistance requested;
- (5) the plan for repaying the total cost of the project; and
- (6) any other information the board requires in order to perform its duties and to protect the public interest.

(b) The board may not accept an application for financial assistance unless it is submitted in affidavit form by the officials of the political subdivision. The board shall prescribe the affidavit form in its rules. The rules do not restrict or prohibit the board from requiring additional factual material from an applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.123. Certificate of Commission or Approval by Commission

(a) Except as provided in Subsection (b) of this section, the board shall not deliver funds pursuant to an application for financial assistance until the political subdivision has furnished the board a resolution adopted by the commission certifying:

- (1) that an applicant proposing surface-water development has the necessary water right authorizing it to appropriate and use the water which the project will provide; or
- (2) that an applicant proposing underground water development has the right to use water that the project will provide.

(b) If an application includes a proposal for a waste water treatment plant, the part of the application relating to the waste water treatment plant does not need to be certified by the commission, but the board may not deliver funds for the waste water treatment plant until the political subdivision has obtained written evidence of approval of the plans for the waste water treatment plant from the executive director.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.124. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance, the board shall consider:

- (1) the needs of the area to be served by the project and the benefit of the project to the area in relation to the needs of other areas requiring state assistance in any manner and the benefits of those projects to the other areas;
- (2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the project, including interest;

- (3) whether the political subdivision can reasonably finance the project without assistance from the state;
- (4) the relationship of the project to the overall, statewide water needs; and
- (5) the relationship of the project to the state water plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.125. Approval of Application

The board by resolution may approve an application if, after considering the factors listed in Section 17.124 of this code and any other relevant factors, the board finds:

- (1) that the public interest requires state participation in the project;
- (2) that the political subdivision cannot reasonably finance the project without state assistance in the amount finally approved by the board; and
- (3) that in its opinion the revenue or taxes pledged by the political subdivision will be sufficient to meet all the obligations assumed by the political subdivision during the succeeding period of not more than 50 years.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.126. Method of Financial Assistance

The board may provide financial assistance by using money in the water development account to purchase bonds or other securities issued by the political subdivision to finance the project. The board may purchase bonds or securities that are secondary or subordinate to other bonds or securities issued by the political subdivision to finance the same project. The board may purchase outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.127. Bond Maturity

The board may not purchase bonds or other securities which have a maturity date more than 50 years from the date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.128. Interest Rate

(a) Except as provided in Subsection (b) of this section, bonds and securities purchased by the board on or after September 1, 1977, with money derived from the sale of bonds issued under this chapter shall bear interest at the lending rate. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate

the lending rate as nearly as the board deems practicable. The lending rate shall be affected by the payment of premiums or the deduction of discounts as necessary.

(b) Bonds and securities purchased by the board pursuant to applications for financial assistance approved by the board prior to September 1, 1977, shall bear interest at the rate prescribed by Subsection (a) of this section prior to this amendment. Outstanding prior lien bonds purchased by the board under Section 17.126 of this code need not bear the interest rate provided in Subsection (a) of this section, but the board may pay such price or prices for outstanding prior lien bonds which in its discretion will accomplish the objective of Section 17.126 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 11.409 by Acts 1977, 65th Leg., p. 671, ch. 254 § 2.

§ 17.129. Approval and Registration

The board shall not purchase any bonds or securities that have not been approved by the attorney general and registered by the comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.130. Bonds Incontestable

The bonds or other securities issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) purchase by and delivery to the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.131. Security for Bonds

(a) Bonds purchased by the board shall be supported by:

- (1) all or part of the net revenue from the operation of the project;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) The board may require that the bonds be supported both by taxes and by net revenue from the operation of the project in any ratio the board considers necessary to fully secure the investment. The board shall establish other conditions and requirements it considers to be consistent with sound investment practices and in the public interest.

(c) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds superior to those purchased by the board and

the amount necessary to pay the cost of maintaining and operating the project.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.132. Default

(a) In the event of a default in payment of the principal of or interest on bonds purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.133. Sale of Bonds by Board

(a) The board may sell or dispose of bonds purchased with money in the water development account. The board may not sell the bonds for less than amortized value and accrued interest.

(b) The board shall first offer the bonds at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.134. Proceeds From Sale

The proceeds from the sale of political subdivision bonds held by the board shall be credited to the water development account, except that accrued interest shall be credited to the interest and sinking fund.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.135. Construction Contract Requirements

The governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project:

- (1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded a construction contract furnish performance and payment bonds:

(A) the performance bond shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices; and

(B) the performance and payment bonds shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision; and

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project, but, if the project is substantially complete, a partial release of the 10 percent retainage may be made by the political subdivision with approval of the executive director;

(5) that payment of the retainage remaining due upon completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive director in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 17.136. Filing Construction Contract

The political subdivision shall file with the department a certified copy of each construction contract it enters into for the construction of all or part of a project. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.137. Inspection of Projects

(a) The department may inspect the construction of a project at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the project as sub-

mitted when approval of the feasibility of the project was sought; and

(2) the contractor is constructing the project in accordance with sound engineering principles.

(b) Inspection of a project by the department does not subject the state to any civil liability.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.138. Alteration of Plans

After the executive director approves of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the executive director authorizes the alteration in accordance with rules of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 17.139. Certificate of Approval

The executive director may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the project according to approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any term of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

[Sections 17.140 to 17.170 reserved for expansion]

SUBCHAPTER E. BOND PURCHASES FOR WATER QUALITY ENHANCEMENT PURPOSES

§ 17.171. Financial Assistance

The board shall use funds in the water quality enhancement account to provide financial assistance through the purchase of bonds or other obligations of political subdivisions pursuant to an application for financial assistance approved by it.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.172. Other Financial Assistance

The board may purchase bonds or other obligations that are secondary or subordinate to other bonds or obligations issued by the political subdivision, including outstanding prior lien bonds previously issued by the political subdivision when this will avoid or reduce the necessity for issuing junior lien bonds for subsequent sale to the board. However, the security for both prior lien and junior lien bonds shall be pledged from substantially the same sources of revenue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.173. Bond Maturity

The board may not purchase bonds or other obligations which have a maturity date more than 50 years from the date of issuance.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.174. Interest Rate

(a) Except as provided in Subsection (b) of this section, bonds and other obligations purchased by the board on or after September 1, 1977, with money in the water quality enhancement account pursuant to Subchapters F and G of this chapter¹, shall bear interest at the lending rate. The bonds shall bear coupons evidencing interest at a rate or combination of rates that will approximate the lending rate as nearly as the board deems practicable. The lending rate shall be affected by the payment of premiums or the deduction of discounts as necessary.

(b) Outstanding prior lien bonds purchased by the board under Section 17.172 of this code may but need not bear the interest rate provided in Subsection (a) of this section, but may be purchased for such price or prices as will accomplish the objectives of Section 17.172 of this code.

[Amended by Acts 1977, 65th Leg., p. 2278, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Sections 17.221 et seq., 17.271 et seq.

The text of this section incorporates the amendment to former § 11.604 by Acts 1977, 65th Leg., p. 671, ch. 254, § 2.

§ 17.175. Approval and Registration

The board shall not purchase any bonds or other obligations that have not been approved by the attorney general and registered by the comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.176. Bonds Incontestable

The bonds or other obligations issued by a political subdivision are valid, binding, and incontestable after:

- (1) approval by the attorney general;
- (2) registration by the comptroller; and
- (3) purchase by and delivery to the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.177. Security for Bonds

(a) Bonds or other obligations purchased by the board under this subchapter shall be supported by:

- (1) all or part of the net revenue from the operation of the treatment works;
- (2) taxes levied by the political subdivision for the purpose; or
- (3) a combination of taxes and net revenue, and revenue from other available sources.

(b) As used in this section, "net revenue" means gross revenue less the amount necessary to provide for principal, interest, and reserve requirements of bonds, if any, superior to those purchased by the board and the amount necessary to pay the cost of maintaining and operating the treatment works.

(c) The board has the exclusive responsibility to specify terms and conditions of the financial assistance, including all maturity schedules which are necessary in the opinion of the board to achieve the best security for the state which the applicant is reasonably capable of providing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 978, ch. 367, § 6, eff. June 10, 1981.]

§ 17.178. Default

(a) In the event of a default in payment of the principal of or interest on bonds or other obligations purchased by the board or of a default in payment of amounts due under a loan agreement executed under the provisions of Subchapters F and G of this chapter¹ or of a failure to perform any term or condition agreed to or of any other default as defined in the proceedings or indentures authorizing the issuance of the bonds or in any other obligation or loan agreement, the attorney general shall institute appropriate proceedings by mandamus or other legal remedies to compel the political subdivision or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court of Travis County.

(b) The provisions of this section are cumulative of any other rights or remedies to which the bondholders may be entitled.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Sections 17.221 et seq., 17.271 et seq.

§ 17.179. Sale of Bonds by Board

(a) The board may sell or dispose of bonds or other obligations purchased with money in the water quality enhancement account at not less than amortized value and accrued interest.

(b) The board shall first offer the bonds or other obligations at their amortized value plus accrued interest to the issuing political subdivision at least 30 days before the date of requesting competitive bids.

(c) If the political subdivision fails to give notice to the board of its desire to acquire the bonds or other obligations at amortized value and accrued interest within the 30-day period, then the board shall give notice of the sale of the bonds, receive competitive bids, and conduct the sale of such bonds or other obligations so purchased, all in the manner provided for the sale of bonds, except the board may waive any requirement for good faith checks.

§ 17.180. **Proceeds From Sale**

The proceeds from the sale of such political subdivision bonds or other obligations held by the board shall be credited to the water quality enhancement account, except that accrued interest shall be credited to the interest and sinking fund.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 17.181 to 17.220 reserved for expansion]

SUBCHAPTER F. PROGRAM FOR FINANCIAL ASSISTANCE FOR WASTE TREATMENT CONSTRUCTION [REPEALED]

§§ 17.221 to 17.236. **Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981**

The repealed sections, relating to a program for financial assistance for waste treatment construction were derived from Acts 1977, 65th Leg., p. 2207, ch. 870, § 1.

[Sections 17.237 to 17.270 reserved for expansion]

SUBCHAPTER G. ALTERNATIVE PROGRAM FOR FINANCIAL ASSISTANCE FOR CONSTRUCTION OF TREATMENT WORKS

§ 17.271. **Purpose**

The purpose of this subchapter is to provide for making loans of water quality enhancement funds authorized by Article III, Section 49-d-1, as amended, of the Texas Constitution to political subdivisions of the state for the construction of treatment works.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.272. **Definitions**

In this subchapter:

(1) "Water quality enhancement" means the construction of treatment works by political subdivisions with loans provided with water quality enhancement funds.

(2) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement this chapter or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including sites therefor and acquisition of the land that will be a part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment; and any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutral-

izing, or stabilizing waste; or facilities to provide for the collection, control, and disposal of waste heat.

(3) "Construction" means any one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, title, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, the expense of any condemnation or other legal proceeding, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items.

(4) "Water quality enhancement funds" means the proceeds from the sale of Texas Water Development Bonds issued under the authority of Article III, Section 49-d-1, as amended, of the Texas Constitution.

(5) "Political subdivision" means the state, a county, city, or other body politic or corporate of the state, including any district or authority created under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution and including any interstate compact commission to which the state is a party.

(6) "Loans" means purchase by the state of the bonds or other obligations of a political subdivision with water quality enhancement funds.

(7) "Financial assistance" means any loan of water quality enhancement funds made to a political subdivision for the construction of treatment works through the purchase of bonds or other obligations of the political subdivision.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.273. **Financial Assistance**

The board may use water quality enhancement funds to provide financial assistance to political subdivisions for purposes of water quality enhancement.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.274. **Authority of Political Subdivision**

A political subdivision may apply to the board for financial assistance and may use water quality enhancement funds for construction of treatment works in the manner provided in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.275. **Application for Assistance**

In an application to the board for financial assistance, the applicant shall include:

- (1) the name of the political subdivision and its principal officers;
- (2) a citation of the law under which the political subdivision operates and was created;

(3) the estimated total cost of construction of the treatment works;

(4) the amount of state financial assistance requested;

(5) the method for obtaining the financial assistance, whether by purchase of bonds or purchase of other obligations of the political subdivision;

(6) the plan for repaying the financial assistance; and

(7) any other information the board requires.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.276. Considerations in Passing on Application

In passing on an application from a political subdivision for financial assistance, the board shall consider:

(1) the water quality needs of the waters into which effluent from the treatment works will be discharged and the benefit of the treatment works to such water quality needs in relation to the needs of other waters requiring state assistance in any manner and the benefits of those treatment works to the other waters;

(2) the availability of revenue to the political subdivision, from all sources, for the ultimate repayment of the cost of the treatment works, including interest;

(3) whether the political subdivision can reasonably finance the treatment works without assistance from the state;

(4) the relationship of the treatment works to the overall, statewide water quality needs;

(5) the relationship of the treatment works to water quality planning for the state; and

(6) whether the political subdivision has been designated, pursuant to Section 26.082 of this code, to provide a regional system to serve all or part of the waste disposal needs of a defined area, the development of such systems being the declared policy of the legislature.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 21.706 by Acts 1977, 65th Leg., p. 1651, ch. 648, § 1.

§ 17.277. Action on Application

(a) After an application is received for financial assistance, the executive director shall submit the application to the board together with comments and recommendations of the development fund manager concerning the best method of making financial assistance available.

(b) The board may grant the application in whole or part or may deny the application.

(c) The board has the sole responsibility and authority for selecting the political subdivisions to whom financial assistance may be provided, the

amount of any such assistance, and in consultation with and pursuant to agreement with the political subdivision, the board shall determine the location, time, design, scope, and all other aspects of the construction of treatment works to be performed.

(d) The executive director shall review and approve plans and specifications for all treatment works for which financial assistance is provided in any amount from water quality enhancement funds or funds granted under the Federal Water Pollution Control Act, as amended.¹ The Texas Department of Health shall review and approve plans in those cases where such assistance has not been requested except when notice of intention to apply for the financial assistance has been given to the executive director in which case the executive director shall perform review and approval functions. Duplicate review and approval will not be performed and actions on review and approval shall be fully interchangeable between the executive director and the Texas Department of Health.

(e) The deliberations, proposals, decisions, and other actions of the board under this subchapter do not require the concurrence or approval of any other governmental agency, board, commission, council, political subdivision, or other governmental entity.

(f) If the board grants an application in whole or part, financial assistance shall be funded by the board in accordance with Subchapter E of this chapter.² When bonds or other obligations are purchased by the board, water quality enhancement funds shall be delivered to the political subdivisions entitled to receive them and shall be used only to pay construction costs of treatment works approved in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 7, eff. June 10, 1981.]

¹ 33 U.S.C.A. § 1251 et seq.

² Section 17.171 et seq.

§ 17.278. Approval of Application

The board by resolution may approve an application if, after considering the factors listed in Section 17.276 of this code and any other relevant factors, the board finds:

(1) that the public interest will benefit from state participation in the financing of the treatment works; and

(2) that the political subdivision cannot reasonably finance the treatment works without state assistance in the amount finally approved by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.279. Construction Contract Requirements

The governing body of each political subdivision receiving financial assistance from the board shall

require in all contracts for the construction of treatment works:

(1) that each bidder furnish a bid guarantee equivalent to five percent of the bid price;

(2) that each contractor awarded either a design/construct contract or construction contract furnish performance and payment bonds each of which shall include without limitation guarantees that work done under the contract will be completed and performed according to approved plans and specifications and in accordance with sound construction principles and practices and each of which shall be in a penal sum of not less than 100 percent of the contract price and remain in effect for one year beyond the date of approval by the engineer of the political subdivision;

(3) that payment be made in partial payments as the work progresses;

(4) that each partial payment shall not exceed 90 percent of the amount due at the time of the payment as shown by the engineer of the project but if the project is substantially complete, the 10 percent retainage requirement may be reduced by the political subdivision with approval of the executive director;

(5) that payment of the retainage remaining due on completion of the contract shall be made only after:

(A) approval by the engineer for the political subdivision as required under the bond proceedings;

(B) approval by the governing body of the political subdivision by a resolution or other formal action; and

(C) certification by the executive director in accordance with the rules of the board that the work to be done under the contract has been completed and performed in a satisfactory manner and in accordance with sound engineering principles and practices; and

(6) that no valid approval may be granted unless the work done under the contract has been completed and performed in a satisfactory manner according to approved plans and specifications.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 17.280. Filing Construction Contract

The political subdivision shall file with the department a certified copy of each construction contract it enters into for the construction of all or part of the treatment works. Each contract shall contain or have attached to it the specifications, plans, and details of all work included in the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.281. Department Inspection

(a) The department may inspect the construction of treatment works at any time to assure that:

(1) the contractor is substantially complying with the engineering plans of the treatment works as submitted when approval of the feasibility of the treatment works was sought; and

(2) the treatment works are being constructed in accordance with sound construction principles.

(b) Inspection of treatment works by the department does not subject the state to any civil liability.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.282. Alteration of Plans

After board approval of engineering plans, a political subdivision may not make any substantial or material alteration in the plans unless the board authorizes the alteration.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 17.283. Certificate of Approval

The executive director may consider the following as grounds for refusal to give a certificate of approval for any construction contract:

(1) failure to construct the treatment works according to approved plans;

(2) failure to construct the works in accordance with sound engineering principles; or

(3) failure to comply with any term of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 17.284. Obtaining Financial Assistance

(a) In order to obtain financial assistance under this subchapter, a political subdivision may authorize and issue revenue bonds for the purpose of constructing treatment works and sell such bonds to the board in such amounts as may be determined by the governing body of the political subdivision and approved by the board.

(b) Notwithstanding the provisions of Article 1112, Revised Civil Statutes of Texas, 1925, as amended, or any other general or special law or charter provisions to the contrary, a political subdivision may authorize, issue, and sell such revenue bonds as provided herein and create any encumbrance in connection therewith by a majority vote of the governing body of the political subdivision without the necessity of any election.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977, for disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. GENERAL PROVISIONS

§ 18.001. Short Title

This chapter may be cited as the Weather Modification Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.002. Definitions

As used in this chapter:

(1) "Commission" means the Texas Water Commission.

(2) "Board" means the Texas Water Development Board.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods the natural development of atmospheric cloud forms or precipitation forms which occur in the troposphere.

(6) "Operation" means the performance of weather modification and control activities entered into for the purpose of producing or attempting to produce a certain modifying effect within one geographical area over one continuing time interval not exceeding four years.

(7) "Research and development" means theoretical analysis, exploration, experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.003 to 18.010 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES
OF BOARD

§ 18.011. Rules—In General

The board may make rules necessary to exercise the powers and to perform their duties under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.012. Rules—Licenses and Permits

In order to effectuate the purposes of this chapter, the commission may make rules establishing procedures and conditions for the issuance of licenses and permits.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.013. Rules—Safety

The board may make rules establishing standards and instructions to govern the carrying out of research or projects in weather modification and control that the board considers necessary or desirable to minimize danger to health or property.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.014. Studies; Investigations; Hearings

The department may make any studies or investigations, obtain any information, and hold any hearings necessary or proper to administer or enforce this chapter or any rules or orders issued under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.015. Advisory Committees

The board may establish advisory committees to advise the department and to make recommendations to the department concerning legislation, policies, administration, research, and other matters.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2068, ch. 808, § 4, eff. June 13, 1979.]

§ 18.016. Personnel

The executive director may, as provided by the General Appropriations Act, appoint and fix the compensation of any personnel, including specialists and consultants, necessary to perform duties and functions under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.017. Materials and Equipment

The department may acquire in the manner provided by law any materials, equipment, and facilities necessary to the performance of its duties and functions under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.018. Interstate Compacts

The executive director may represent the state in matters pertaining to plans, procedures, or negotiations for interstate compacts relating to weather modification and control.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.019. Contracts, Cooperative Agreements, Etc.

(a) The department may cooperate with public or private agencies to promote the purposes of this chapter.

(b) The department may enter into cooperative agreements with the United States or any of its agencies, or with counties and cities of this state, or with any private or public agencies for conducting weather modification or cloud-seeding operations.

(c) The department may represent the state, counties, cities, and public and private agencies in contracting with private concerns for the performance of weather modification or cloud-seeding operations.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.020. Promotion of Research and Development

(a) In order to assist in expanding the theoretical and practical knowledge of weather modification and control, the department shall promote continuous research and development in:

(1) the theory and development of methods of weather modification and control, including processes, materials, and devices related to these methods;

(2) the utilization of weather modification and control for agricultural, industrial, commercial, and other purposes; and

(3) the protection of life and property during research and operational activities.

(b) The executive director with approval of the board may conduct and may contract for research and development activities relating to the purposes of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.021. Grants, Gifts, Etc.

Subject to any limitations imposed by law, the department may accept federal grants, private gifts, and donations from any other source. Unless the use of the money is restricted or subject to any limitations provided by law, the department may spend it for the administration of this chapter or may by grant, contract, or cooperative arrangement use the money to encourage research and development by a public or private agency.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.022. Disposition of License and Permit Fees

The department shall deposit all license and permit fees in the State Treasury.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.023 to 18.050 reserved for expansion]

SUBCHAPTER C. LICENSES AND PERMITS

§ 18.051. License and Permit Required

Except as provided by rule of the board under Section 18.052 of this code, no person may engage in activities for weather modification and control:

(1) without a weather modification license and a weather modification permit issued by the commission; or

(2) in violation of any term or condition of the license or the permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.052. Exemptions

The board, to the extent it considers exemptions practical, shall provide by rule for exempting the

following activities from the license and permit requirements of this chapter:

- (1) research, development, and experiments conducted by state and federal agencies, institutions of higher learning, and bona fide nonprofit research organizations;
- (2) laboratory research and experiments;
- (3) activities of an emergent nature for protection against fire, frost, sleet, or fog; and
- (4) activities normally conducted for purposes other than inducing, increasing, decreasing, or preventing precipitation or hail.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.053. Issuance of License

(a) The commission, in accordance with the rules, shall issue a weather modification license to each applicant who:

- (1) pays the license fee; and
 - (2) demonstrates, to the satisfaction of the commission, competence in the field of meteorology which is reasonably necessary to engage in weather modification and control activities.
- (b) If the applicant is an organization, the competence must be demonstrated by the individual or individuals who are to be in control and in charge of the operation for the applicant.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.054. License Fee

The fee for an original or renewal license is \$150.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 367, ch. 81, § 9(b), eff. Sept. 1, 1983.]

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

§ 18.055. Expiration Date

Each original or renewal license expires at the end of the state fiscal year for which it was issued.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.056. Renewal License

At the expiration of the license period, the commission shall issue a renewal license to each applicant who pays the license fee and who has the qualifications necessary for issuance of an original license.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.057 to 18.080 reserved for expansion]

§ 18.081. Issuance of Permit

(a) The commission, in accordance with the rules and on a finding that the weather modification and control operation as proposed in the permit applica-

tion will not significantly dissipate the clouds and prevent their natural course of developing rain in the area where the operation is to be conducted to the material detriment of persons or property in that area, and after approved at an election if covered by Section 18.0841 of this code, may issue a weather modification permit to each applicant who:

- (1) holds a valid weather modification license;
- (2) pays the permit fee;
- (3) publishes a notice of intention and submits proof of publication as required by this chapter; and
- (4) furnishes proof of financial responsibility.

(b) The commission shall, if requested by at least 25 persons, hold at least one public hearing in the area where the operation is to be conducted prior to the issuance of a permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2068, ch. 808, § 5, eff. June 13, 1979.]

The text of this section incorporate the amendment to former § 14.061 by Acts 1977, 65th Leg., p. 952, ch. 360, § 1.

§ 18.082. Permit Fee

The fee for each permit is \$75.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 367, ch. 81, § 9(b), eff. Sept. 1, 1983.]

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

§ 18.083. Scope of Permit

A separate permit is required for each operation. If an operation is to be conducted under contract, a permit is required for each separate contract. The commission shall not issue a permit for a contracted operation unless it covers a continuous period not to exceed four years.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.084. Application and Notice of Intention

Before undertaking any operation, a licensee shall file an application for a permit and shall have a notice of intention published as required by this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.0841. Election for Approval of a Permit That Includes Authorization for Hail Suppression

(a) In this section:

- (1) "Target area" means that area described by metes and bounds or other specific bounded description set out in the application for a permit.
- (2) "Operational area" means that area that joins the target area which is reasonably necessary to use in order to effectuate the purposes over the target area without affecting the land or

land owners in the operational area, but in no event to exceed eight miles from the limits of the target area. The operational area shall be described by metes and bounds or other specific bounded description and shall be set out in the application for a permit. If the application for a permit does not describe the operational area, the commission may designate an area located inside and up to eight miles from the outer limits of the target area described in the application as the operational area of the permit for the purposes of this chapter.

(b) No permit may be issued by the commission before the end of the 30-day period immediately following the first publication of notice and then only in those counties or parts of counties in the target area or operational area in which the majority of the qualified voters voting have approved or have not disapproved the issuance of a permit if an election has been held, or in any county or part of a county in the target area or operational area if no petition for an election has been filed.

(c) Persons eligible to vote in elections held under this section shall include qualified voters in counties or parts of counties included in the target area or operational area. Where the target area or operational area includes only part of a county, an election held under this section may be held only in the election precincts which are included entirely within or are partially included in said areas. All qualified voters in such precincts shall be entitled to vote in these elections.

(d) On written request of at least 25 qualified voters residing in the target area or operational area mentioned in the notice requesting an election accompanied by unsigned petitions, the county clerk of each county within the target area or operational area shall certify and mark for identification petitions for circulation. An application for a petition seeking an election to disapprove the issuance of a permit shall be headed: "Application for Election to Disapprove a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants stating the following: "It is the hope, purpose, and intent of the applicants whose signatures appear on this application to see disapproved the issuance of a permit for weather modification including hail suppression." An application for a petition seeking an election to approve the issuance of a permit shall be headed: "Application for Election to Approve a Weather Modification Permit." The application shall contain a statement just ahead of the signatures of the applicants as follows: "It is the hope, purpose, and intent of the applicants whose signatures appear on this petition to see approved the issuance of a permit for weather modification including hail suppression." Upon the return to the county clerks of such petitions signed by at least 10 percent of the qualified voters residing in each county within the target area or operational area in the notice requesting an election the commissioners court of

each county shall call and hold an election. Notice under Chapter 549, Acts of the 60th Legislature, Regular Session, 1967 (Article 29e, Vernon's Texas Civil Statutes), of the commissioners court meeting to call and hold the election is not required. The date of the election shall be determined by the commissioners court in accordance with this section notwithstanding Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code). The petition must be filed with the clerk of each county within 30 days immediately following the first publication of notice. The election shall be held within 45 days after the petition is received to determine whether or not the qualified voters in the target area or operational area approve the issuance of the permit. Immediately on calling the election, the clerk of each county within the target area or operational area shall notify the executive director of the date of the election. Except as otherwise provided in this chapter, elections shall be held in accordance with the Texas Election Code.

(e) The petition for the election shall read substantially as follows: "The following qualified voters of _____ County request the Commissioners Court of _____ County to call an election at which the qualified voters shall be asked to vote on the proposition of whether or not they approve of the issuance of a weather modification permit that includes authorization for hail suppression (description of area)." Each qualified voter signing the petition shall give his full name and address and voter registration number. Within five days after receiving a petition under this section, the commissioners court shall have the county clerk of the county check the names on the petition against the voter registration lists of the county and certify to the commissioners court the number of qualified voters signing the petition as reflected by checking the county's voter registration lists. If only a part of a county is included in the target area or operational area, the county clerk shall also certify that those signing the petition reside in an election precinct in the county totally or partially included in the target area or operational area. On certification by the county clerk, the petition shall be filed with the official records of the county and shall be available for public inspection.

(f) A person filing a petition with the county clerk shall deposit with the county clerk an amount of money estimated by the county clerk to be sufficient to cover the costs of the election, to be held by the county clerk until the result of the election to approve or disapprove the issuance of the permit is officially announced. If the result of the election favors the party petitioning for the election, the county clerk shall return the deposit to the person filing the petition or his agent or attorney, but if the result of the election does not favor the party petitioning for the election, the county clerk shall pay the cost and expenses of the election from the deposit and return the balance of the deposit to the person filing the petition or his agent or attorney.

(g) The ballots for an election under this section shall be printed to provide for voting for or against the proposition: "The issuance of a permit providing for weather modification including authorization for hail suppression and control in (description of area)."

(h) The order calling the election shall provide for the time and place or places for holding the election, the form of the ballots, and the presiding judge for each voting place.

(i) The commissioners court shall publish a copy of the election order in a newspaper of general circulation in the county or in the part of the county within the target area or operational area at least 30 days preceding the day of the election.

(j) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the commissioners court within five days after the election. A copy of the results are to be filed with the county clerk and become a public record.

(k) Within five days after the results are filed, the commissioners court shall declare the results.

(l) The commissioners court of each county holding an election shall send certified copies of the results of the election to the executive director within 24 hours after the results are declared under Subsection (j) of this section.

(m) If a majority of the qualified voters voting in the election precincts any part of which are located in the target area vote against issuance of the permit, no permit may be issued. If a majority of the qualified voters voting in the election precincts any part of which are located within the target area vote in favor of issuance of the permit, the commission may issue the permit as provided in this subsection, provided, however, if a majority of the qualified voters voting in either of the following areas vote against issuance of the permit, those areas shall be excluded from the coverage of the permit:

(1) any election precinct any part of which is located in the operational area; or

(2) any election precinct located wholly within the target area and contiguous with its outer boundary. If, however, the commission finds that a weather modification and control operation is still feasible, a permit may be issued covering areas in which no election is requested or areas in which the voters give their approval as provided in this section.

(n) If a permit is denied under Subsection (m) of this section, no application for a permit covering all or part of the same target area or operational area so denied may be considered, and no permit under that application may be issued by the commission, for a period of two years following the date of the election nor may an election be held pursuant to this chapter.

(o) If a permit including authorization for hail suppression is to cover only a part of a county, only those qualified voters residing in an election precinct or precincts of the county included in the target area or operational area are eligible to sign a petition and to vote at an election under this section, and in computing the vote, only a majority of those qualified voters residing in such areas and voting in the election shall be necessary to carry the proposition in that county.

(p) No permit shall be issued which provides for or allows the seeding of clouds for hail suppression outside the target area or within those counties or parts of counties located in the operational or target areas which were excluded from the coverage of the permit by virtue of an election under Subsection (m) of this section. However, seeding may be done in those counties or parts of counties located in the operational or target area which were not excluded from the coverage of the permit by virtue of an election under Subsection (m) of this section, provided it is reasonably calculated to take effect only within the target area. This shall not prohibit the observation of cloud and cloud formations.

(q) The department may monitor any program under such conditions as the department deems advisable.

(r) The provisions of this section do not apply to any permits in effect at the time this section becomes law.

(s) Upon petition as provided in this section, the commissioners court of any county outside but adjacent to a county included in the operational area of an existing or proposed permit shall call and hold an election on the proposition of whether or not the qualified voters of the county approve of the issuance of any permit authorizing hail suppression in the county. If the county voters voting in such election disapprove the issuance of permits authorizing hail suppression, the commission may not issue any such permit covering the county until the proposition has been approved by a subsequent election.

(t) If any county or part of a county has disapproved the issuance of a permit at the previous election held under the provisions of this section, that county or part of a county shall not be included in any permit issued by the commission until the voters of that county or part of a county have participated in a subsequent election at which a permit is approved. The applicant for a permit which includes that county or part of a county shall have the burden of petitioning for an election and depositing costs in the manner provided by this section for the original election to approve or disapprove a permit.

(u) The board by rule shall define the term hail suppression as used in this section, using the most

current scientifically accepted technological concepts.

[Acts 1977, 65th Leg., p. 952, ch. 360, § 2, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 2064, ch. 808, §§ 1, 3, eff. June 13, 1979.]

§ 18.085. Content of Notice

In the notice of intention, the applicant shall include:

- (1) the name and address of the licensee;
- (2) the nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) the area in which and the approximate time during which the operation is to be conducted;
- (4) the area which is intended to be affected by the operation; and
- (5) the materials and methods to be used in conducting the operation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.086. Publication of Notice

The notice of intention shall be published at least once a week for three consecutive weeks in a newspaper of general circulation published in each county in which the operation is to be conducted and in each county which includes any part of the affected area. If in any such county no newspaper of general circulation is published, then publication shall be made in a newspaper having general circulation in the county.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.087. Proof of Publication; Affidavit

The applicant shall file proof of the publication, together with the publishers' affidavits, with the commission during the 15-day period immediately following the date of the last publication.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.088. Proof of Financial Responsibility

Proof of financial responsibility is made by showing to the satisfaction of the commission that the licensee has the ability to respond in damages for liability which might reasonably result from the operation for which the permit is sought.

§ 18.089. Modification of Permit

The commission may modify the terms and conditions of a permit if:

- (1) the licensee is first given notice and a reasonable opportunity for a hearing on the need for a modification; and

- (2) it appears to the commission that a modification is necessary to protect the health or property of any person.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.090. Scope of Activity

(a) Once a permit is issued, the licensee shall confine his activities substantially within the limits of time and area specified in the notice of intention, except to the extent that the limits are modified by the commission. He shall also comply with any terms and conditions of the permit as originally issued or as subsequently modified by the commission.

(b) Failure of a licensee to comply with the provisions of Subsection (a) of this section constitutes a violation of this chapter and subjects the licensee to the sanctions provided in Sections 18.121 and 18.122 of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2067, ch. 808, § 2, eff. June 13, 1979.]

§ 18.091. Records and Reports

(a) A licensee shall keep a record of each operation conducted under permit, showing:

- (1) the method employed;
- (2) the type of equipment used;
- (3) the kind and amount of each material used;
- (4) the times and places the equipment is operated;
- (5) the name and post-office address of each individual, other than the licensee, who participates or assists in the operation; and
- (6) other information required by the department.

(b) The department shall require written reports covering each operation, whether it is exempt or conducted under a permit.

(c) At the time and in the manner required by the department, a licensee shall submit a written report containing the information described in Subsection (a) of this section.

(d) All information on an operation shall be submitted to the department before it is released to the public.

(e) The reports and records in the custody of the department shall be kept open for public inspection.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2068, ch. 808, § 4, eff. June 13, 1979.]

[Sections 18.092 to 18.120 reserved for expansion]

SUBCHAPTER D. SANCTIONS

§ 18.121. Suspension; Revocation; Refusal to Renew

(a) The commission may suspend or revoke a license or permit if it appears that the licensee:

(1) no longer has the qualifications necessary for the issuance of an original license or permit; or

(2) has violated any provision of this chapter.

(b) The commission may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.1211. Permit Violation

(a) In this section, "permit area" means the area affected and the area of operations covered by a permit.

(b) After notice and hearing, the commission may issue a warning or, if a warning has already been issued, may suspend a permit up to a period of two years if the board finds that a permittee, through carelessness, performed all or any part of a weather modification and control operation outside the boundaries of the permit area. The commission may suspend the permit up to a period of two years without prior issuance of a warning if the permittee, through gross carelessness, performed all or any part of a weather modification and control operation outside the boundaries of a permit area.

(c) A person who violates a provision of a permit is guilty of a Class A misdemeanor.

[Acts 1977, 65th Leg., p. 955, ch. 360, § 3, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 2068, ch. 808, § 4, eff. June 13, 1979.]

§ 18.122. Hearing Required

The commission may not suspend or revoke a license or permit without first giving the licensee notice and a reasonable opportunity to be heard with respect to the grounds for the commission's proposed action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.123. Record of Hearing

The commission shall have a record made of all proceedings at each hearing held under Section 18.122 of this code and shall have the record filed with its findings and conclusions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.124 to 18.150 reserved for expansion]

§ 18.151. Immunity of State

The state and its officers and employees are immune from liability for all weather modification and control activities conducted by private persons and groups.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.152. Private Legal Relationships

(a) This chapter does not affect private legal relationships, except that an operation conducted under the license and permit requirements of this chapter is not an ultrahazardous activity which makes the participants subject to liability without fault.

(b) The fact that a person holds a license or permit under this chapter or that he has complied with this chapter or the regulations issued under this chapter is not admissible as evidence in any legal proceeding brought against him.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 18.153 to 18.170 reserved for expansion]

§ 18.171. Penalty

(a) A person who violates any provision of this chapter or any valid regulation or order issued under this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000, or by confinement in the county jail for not more than 10 days, or by both.

(b) A separate offense is committed each day a violation continues.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 18.172. Enforcement

(a) Whenever it appears that a person has violated or is violating or is threatening to violate any provision of this chapter or any rule, license, permit, or order of the commission or board, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, license, permit, or order of the commission or board, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty as authorized in Subsection (a) of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

**CHAPTER 19. TEXAS DEEPWATER
PORT AUTHORITY**

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SUBCHAPTER A. GENERAL PROVISIONS

§ 19.001. Policy

It is the policy, intent, and determination of the legislature that:

(1) Texas urgently needs an offshore deepwater port capable of accommodating supertankers for the importation of crude oil and other fluid commodities that may be carried in ships of that size;

(2) it is most desirable for private enterprise to own, construct, and operate such an offshore port;

(3) in the absence of any active and viable plan to develop a deepwater, offshore port by private enterprise, the State of Texas should construct such a facility, which should be self-supporting and whose design, construction, and operation should be carried out by private companies under contract;

(4) protecting the environment is essential to the proper operation of such a port;

(5) the credit of the State of Texas shall not be pledged to finance such a port; and

(6) the Texas Deepwater Port Authority be created to implement this policy.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.002. Definitions

In this chapter:

(1) "General manager" means the General Manager of the Texas Deepwater Port Authority.

(2) "Authority" means the Texas Deepwater Port Authority.

(3) "Board" means the Board of Commissioners of the Texas Deepwater Port Authority.

(4) "Commissioner" means a member of the Board of Commissioners of the Texas Deepwater Port Authority.

(5) "Deepwater port" means the facilities defined in Section 3(10) of the Deepwater Port Act of 1974, 33 U.S.C.A. 1501 et seq., and also includes the onshore storage tank facilities and the pipelines located within the State of Texas that connect the onshore storage facilities with the offshore facilities of a deepwater port.

(6) "Petroleum" means petroleum, crude oil, natural gas, and any substance refined from crude oil or natural gas.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.003. Authorization for Deepwater Port

In order to insure that the policy stated in this chapter is not circumvented, the Texas Deepwater Port Authority created by this chapter shall not commence operations unless and until the governor determines, and so states by executive order, that no active and viable plan to develop a deepwater,

offshore port by private enterprise exists in Texas and that the Texas Deepwater Port Authority should carry out its responsibilities under this chapter.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.004. Expiration

If the governor has not made the finding and issued the executive order provided in Section 19.003 of this code, all provisions of this chapter, including the existence of the Texas Deepwater Port Authority, shall expire on January 1, 1979.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.005. Tidelands

None of the provisions of this chapter shall be interpreted or construed to affect Texas's claim to its tidelands or the location of Texas's coastline as interpreted by the State of Texas.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.006 to 19.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 19.011. Texas Deepwater Port Authority

The Texas Deepwater Port Authority is created as an agency of the state and pursuant to Article XVI, Section 59, Subsection (a) of the Texas Constitution.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.012. Commissioners; Appointment

The authority shall be governed by a board of commissioners with nine members, who shall be appointed by the governor with the advice and consent of the senate.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.013. Terms of Office; Vacancies

(a) Of the initial appointees to the board, the governor shall designate three persons to serve until January 31, 1979, three persons to serve until January 31, 1981, and three persons to serve until January 31, 1983.

(b) Except for the initial appointees, each commissioner shall hold office for a staggered term of six years and until his successor is appointed and has qualified.

(c) Any vacancy that occurs on the board shall be filled for the unexpired term in the manner provided

in Section 19.012 of this code for making the original appointment.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.014. Officers

(a) Before June 1 of each even-numbered year, the board of commissioners shall elect a chairman, except for the initial election of chairman which shall be made as soon as possible after the effective date of this chapter.

(b) The board may elect other officers at the times and by the means as it may provide by rule.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.015. Board Meetings

(a) The board shall meet at least once every three months and may hold other meetings at the call of the chair or of five of the commissioners.

(b) The board shall provide by rule for the conduct of meetings.

(c) A majority of the commissioners shall constitute a quorum for the transaction of business.

(d) All meetings of the board shall be open to the public to the same extent as may be provided by general law for meetings of state boards and agencies.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.016. Compensation and Expenses

Each commissioner is entitled to receive reimbursement for travel and other necessary expenses resulting from the performance of his duties under this chapter and is entitled to receive as compensation \$75 a day for each day actually engaged in the work of the authority.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.017. Powers and Duties of the Board; Delegation

(a) The board shall formulate general policy to govern the authority and its activities.

(b) The board shall exercise the powers and duties of the authority and may delegate to the agents and employees of the authority such powers and duties as the board may provide.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.018. General Manager

(a) The board shall employ a general manager to serve at the pleasure of the board.

(b) The general manager shall be the chief administrative officer of the authority and shall manage the executive and administrative functions of the authority under policies adopted by the board.

(c) The general manager shall have kept full and accurate minutes of all transactions and proceedings of the authority.

(d) The general manager shall have any other duties the board may direct.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.019. Employees; Compensation; Etc.

(a) The general manager shall employ necessary attorneys, accountants, engineers, technical personnel, and other employees as the board may consider necessary.

(b) In employing persons under Subsection (a) of this section, the general manager shall comply with all federal laws and rules relating to equal employment opportunity and shall employ for each position the best qualified person for that position.

(c) The employees of the authority shall receive the compensation provided by the board.

(d) Employees of the authority shall not be considered employees of the State of Texas.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.020. Rules

The board shall, after proper notice and hearings, adopt rules governing the conduct of authority operations and the manner of carrying out its powers, duties, and responsibilities.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.021. Documents, Etc.; Open for Inspection

(a) All information, documents, and data collected by the authority in the performance of its duties are open to inspection by any person to the same extent as if that information or the documents or data were the property of the state.

(b) The general manager shall be the custodian of all the files and records of the authority.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.022 to 19.035 reserved for expansion]

SUBCHAPTER C. INITIAL ACTIVITIES AND STUDIES

§ 19.036. Securing of License

(a) Prior to the acquisition of any facilities, the sale of any bonds or notes, or the borrowing of any money, the authority shall secure all necessary licenses and permits for the acquisition, construction, and operation of a deepwater port facility.

(b) No license or permit may be requested or accepted by the authority nor may the state be a party to a license or permit which would impose on the State of Texas or the authority any liability or

financial obligation by virtue of contract, tort, or otherwise unless that liability or financial obligation is fully indemnified without expense of state funds.

(c) With the exception of the initial appropriations from the General Revenue Fund to the Texas Deepwater Port Authority and revenues of the authority, the state may not pledge its faith and credit or contribute any state funds to a project of the Texas Deepwater Port Authority or for expenses of carrying out the powers and duties of the authority. Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of the state or a pledge of the faith and credit of the state. The authority is not authorized to incur any liability or financial obligations which cannot be serviced from the revenues of the authority or from the initial appropriations.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 29, ch. 19, § 1, eff. March 3, 1979.]

§ 19.037. Engineering and Environmental Studies

Concurrent with any applications for licenses and permits for the construction and operation of a deepwater port facility, the authority shall conduct or cause to be conducted engineering and environmental impact studies to determine engineering feasibility of the proposed facility and to determine that adverse effects on the environment will be minimized. The authority may receive information concerning engineering and environmental impact data from any person, firm, or corporation possessing that information and, if construction of such deepwater port facility is commenced, may compensate that person, firm, or corporation a reasonable amount for the information, as determined by the authority.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.038. Financial Feasibility

After securing all necessary licenses and permits to enable the acquisition, construction, and operation of a deepwater port facility, the authority shall conduct a study to determine the financial feasibility of constructing and operating a deepwater port facility. In addition to any financial details or other matters it deems relevant, the authority shall specifically investigate financing alternatives and determine which alternative is feasible and most attractive to the state. In no event does the authority have the ability to pledge the general credit of the state.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.039. Final Report of Commission; Submission of Report to Governor

After consideration of the studies required by Sections 19.036 through 19.038 of this code, the authority shall determine whether or not the facility

is feasible and in the public interest and shall submit a detailed report of its findings to the governor and the legislature.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.040. Submission to Natural Resources Council

On receiving the report containing the findings of the authority, the governor shall transmit a copy of the report to the Natural Resources Council. The Natural Resources Council shall review the report of the authority and submit a recommendation to the governor on the report. If the council has objections to any part of the report, it shall state those objections in detail in its recommendation to the governor. If the council fails to act within 60 days after the report of the authority is received from the governor, the report is deemed approved by the council.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.041 Action by the Governor

The governor shall, within 120 days after the report of the authority is received, either approve or disapprove the findings of the authority. If the report is disapproved, the governor shall state in detail his reasons for disapproval of the report. If the governor disapproves the report of the authority, the authority may revise its report or undertake additional studies and submit a new report to meet the objections of the governor. If the governor has taken no action on the report within 120 days after submission, it is deemed approved.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.042. Approval Necessary for Construction and Issuance of Bonds

Prior to the acquisition of any property or construction of any facilities to be used as a part of a deepwater port facility, the sale of any bonds or notes, or the borrowing of any money, both the authority and the governor must find that the construction and operation of a deepwater port facility is feasible and in the public interest.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.043 to 19.050 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 19.051. General Powers and Duties

(a) The authority has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities.

(b) The authority shall have, in general, all the powers that are permitted to a corporation by the general laws of this state.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.052. Specific Powers and Duties

(a) In addition to its powers and duties under Section 19.051 of this code, the authority shall have the following specific powers and duties as to each individual deepwater port facility:

(1) to acquire by purchase, lease, gift, or in any other manner other than by condemnation and to maintain, use, and operate property of any kind, real, personal, or mixed, or any interest in that property, within or without the boundaries of the State of Texas necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter;

(2) to acquire by condemnation property of any kind, real, personal, or mixed, other than minerals or interests in minerals, or any interest in that property, within or without the boundaries of the State of Texas necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter, in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925, as amended;¹

(3) subject to the provisions of this chapter, from time to time to sell or otherwise dispose of any property of any kind, real, personal, or mixed, or any interest in that property that shall not be necessary to carry on the business of the authority;

(4) subject to the limitations of Subsection (a) of Section 19.054 of this chapter, to construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate, any and all facilities of any kind necessary or convenient to the exercise of such powers, rights, privileges, and functions;

(5) to sue and be sued in its corporate name;

(6) to adopt, use, and alter a corporate seal;

(7) to make bylaws for the management and regulation of its affairs;

(8) to make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred on it by this chapter;

(9) to borrow money for its corporate purposes and without limitation of the generality of the foregoing, to borrow money and accept grants from the United States or from any corporation or agency created or designated by the United States, and in connection with any such loan or grant, to enter into agreements as the United States or the corporation or agency may require, and to make and issue its bonds and notes for money borrowed, in the manner and to the extent provided in Subchapter F of this chapter;²

(10) to apply for, request, solicit, contract for, receive, and accept money and other assistance from any source to carry out its duties; and

(11) to do any and all other acts or things necessary or convenient to the exercise of the powers, rights, privileges, or functions conferred on it by this chapter or any other law.

(b) If the authority requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, or facilities, or pipelines in the exercise of the power of eminent domain, all of the relocation, raising, lowering, rerouting, or changes in grade or alteration of construction due to the exercise of the power of eminent domain shall be the sole expense of the authority. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 3264 et seq. (generally repealed; see, now, Property Code, § 21.001 et seq.).

² Section 19.131 et seq.

§ 19.053. State-owned Water Bottoms; Lease; Etc.

(a) The School Land Board shall lease to the authority state-owned water bottoms that are necessary for the construction, operation, and maintenance of a deepwater port.

(b) The School Land Board shall not lease to any third party any water bottoms that may be necessary for construction, operation, or maintenance of a deepwater port unless the authority certifies to the School Land Board that those water bottoms are not required for use by the authority.

(c) Necessary water bottoms shall be leased to the authority on the terms and for the compensation to which the School Land Board and the authority shall mutually agree.

(d) Mineral rights and interests in the leased areas are reserved to the state; however, the School Land Board may not lease for mineral development any areas leased to the authority without the consent of the authority unless the mineral lease will not adversely affect the deepwater port.

(e) The School Land Board, the authority, and the lessee may enter into agreements to coordinate the use of sites needed by the authority if the sites have existing mineral leases.

(f) Nothing in this section shall authorize the authority to explore for, develop, or produce any minerals of whatever kind.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.054. Development of a Deepwater Port

(a) The authority shall, as soon as possible after the effective date of this chapter:

(1) have designed, licensed, developed, built, operated, maintained, or modified any deepwater port or ports as it shall determine to be necessary from time to time;

(2) provide that the engineering, design, construction, operation, and maintenance of those deepwater ports shall be carried out by suitable private enterprise under the regulation and supervision of the authority;

(3) finance those deepwater ports through self-supporting revenue bonds backed by tariffs charged the users of the facilities and by any other means that may be necessary or convenient and consistent with the provisions of this chapter;

(4) enter into contracts with public or private entities necessary to carry out the provisions of this chapter, provided, however, that no contract for purposes of operation of a deepwater port may be entered into by the authority unless the contract stipulates that the public or private entities contracting with the authority shall assume any liability of the authority for any causes of action arising from environmental damage;

(5) apply for any necessary licenses, permits, or other permissions necessary to carry out the provisions of this chapter;

(6) set and collect those charges the authority may determine are appropriate for any service or other action performed by or requested of the authority;

(7) take any actions the authority may determine are necessary or cause to be done any of the things required of the authority under this chapter;

(8) enter into agreements with port and navigation districts and other political subdivisions or agencies of the state regarding matters of mutual concern;

(9) make payments in lieu of taxes to the state and political subdivisions of the state to the same extent as if the property of the authority were privately owned, provided, however, that any payments in lieu of taxes shall be based on full value less the value of the interests of any public or private entities contracted with to operate the facility; and

(10) take any other actions determined by the board to be necessary for the authority to carry out its duties and responsibilities in implementing the provisions of this chapter.

(b) In addition to the foregoing, the authority may:

(1) own, construct, maintain, lease as lessor or lessee, and sell by installment sale or otherwise, deepwater mooring facilities, wharves, sheds, pipelines, pumping stations, tanks, tank farms and facilities, heliports, warehouses, vessels, and

other property, structures, equipment, and other facilities functionally related to a deepwater port;

(2) dredge and maintain shipways, channels, anchorage, roadsteads, and fairways;

(3) establish, operate, and maintain navigable waterway systems in the immediate area of the facilities constructed hereunder, in cooperation with the United States, this state, and political subdivisions of this state;

(4) enter into a contract with any public or private entity to provide public utility service to the authority and its facilities, or provide its own utility services;

(5) negotiate with and enter into contracts, compacts, and other agreements with the United States and other states of the United States concerning development programs including jurisdictional aspects of the location of deepwater ports and adoption and enforcement of rules governing authority operations;

(6) adopt tolls, fees, rates, tariffs, and charges for use of the terminal or terminals or any of its facilities;

(7) provide for use of existing port facilities and provide for rates, wharfage fees, and other matters of mutual interest, by agreements with existing port authorities and navigation districts; and

(8) enter into contracts or agreements with any person, corporation, trust, or partnership for the financing, construction, operation, maintenance, and sale by installment or otherwise of a deepwater port or any facilities relative to a deepwater port.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.055. Authority Contracts

(a) The authority may let any contracts for the purchase of materials, machinery, and equipment to constitute the plant, works, facilities, and improvements of a deepwater port, for construction, or for other purposes.

(b) All these contracts shall be let to the lowest responsible bidder after sealed bids are solicited by public notice.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.056 to 19.100 reserved for expansion]

SUBCHAPTER E. ENVIRONMENTAL PROTECTION

§ 19.101. Protection of the Environment

(a) The authority shall take all reasonable steps to protect the coastal environment and the high seas from any short-term or long-term damage or harm that might occur from any action the authority may take.

(b) The general manager, under the direction of the board, shall formulate an environmental protec-

tion plan as soon as possible, which shall be adopted by the authority after proper notice and hearing.

(c) In preparing and adopting the environmental protection plan, the authority shall consult and coordinate with any federal, state, and local agencies that have responsibility for environmental protection within the state and shall comply with applicable rules.

(d) The environmental protection plan may be amended at any time by the authority after proper notice and hearing.

(e) Environmental protection shall be a primary responsibility of the authority, and costs incurred to develop the plan to protect the environment shall be considered a necessary cost to the authority and shall be considered a cost to the same extent that economic, engineering, or promotional programs are considered costs.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Sections 19.102 to 19.130 reserved for expansion]

SUBCHAPTER F. FINANCIAL PROVISIONS

§ 19.131. General Provisions

The authority may:

(1) borrow money from time to time for any corporate purpose or in aid of any corporate purpose;

(2) issue and sell notes and provide the terms and conditions for repayment with interest and the rights of the holders of the notes;

(3) issue and sell bonds and provide the terms and conditions for repayment with interest and the rights of the bondholders;

(4) pledge, hypothecate, or otherwise encumber all or any designated part of the revenues and receipts of the authority as security for any of its notes or bonds;

(5) invest money held in any sinking fund, reserve fund, or other fund or money not required for immediate use or disbursement in such securities as it shall determine;

(6) apply for, accept, and administer grants, loans, and other assistance from the United States or any agency or instrumentality of the United States and any agency or instrumentality of this state to carry out the purpose of this chapter, and enter into any agreement in relation to those grants, loans, or other assistance as may be provided by the authority subject to the provisions of Section 19.036, which is not in conflict with the constitution of this state; and

(7) fix, charge and alter, and collect reasonable rentals, rates, fees, and other charges for the use of any works and facilities or for any services rendered by the authority and provide for the

imposition of reasonable penalties for any of those rates, fees, and charges that are delinquent.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.132. Form and Terms of Bonds and Notes

(a) Bonds and notes issued under the provisions of this chapter together with any interest coupons shall be authorized by resolution of the board and shall have the form and characteristics and bear the designation as are therein provided.

(b) Bonds and notes shall:

(1) be authorized by resolution or resolutions of the board;

(2) bear the date or dates, mature at the time or times, serially, terms, or otherwise in not more than 50 years from their dates; and

(3) be callable prior to stated maturity on the terms and at the prices, bear interest at such rate or rates, be payable annually, semiannually, or otherwise, be in the denominations, be in the form, either coupon or registered, carry the registration privileges as to principal only or as to both principal and interest and as to successive exchange of coupon for registered bonds or notes or vice versa and successive exchange of bonds or notes of one denomination for bonds or notes of other denominations, be executed in the manner, and be payable at the place or places within or without the state as the resolution or resolutions may provide.

(c) Bonds or notes may be issued in one or more installments and from time to time as required and sold at a price or prices and under terms determined by the board to be the most advantageous reasonably obtainable.

(d) The proceeds of the sale of bonds or notes shall be deposited in the bank or banks or trust company or trust companies and shall be paid out pursuant to the terms and conditions that may be agreed on between the authority and the purchasers.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.133. Execution of Bonds, Notes, and Coupons

(a) Bonds or notes issued under the provisions of this chapter shall be signed by the chairman or vice-chairman of the board, be attested by its general manager, and bear the seal of the authority.

(b) Any interest coupons appurtenant to the bonds or notes shall be signed by the chairman or the vice-chairman of the board and be attested by its general manager.

(c) The resolution or resolutions authorizing the issuance of an installment or any series of bonds or notes may prescribe the extent to which the authority, in executing the bonds, notes, or appurtenant coupons, may use facsimile signatures and facsimile

seals instead of manual signatures and manually impressed seals.

(d) If an officer whose manual or facsimile signature appears on a bond or note or whose facsimile signature appears on any coupons ceases to be an officer before the bond or note is delivered, the signature is valid and sufficient for all purposes as if he had remained in office until the delivery had been made.

(e) Neither the members of the board nor officers of the authority nor anyone executing the bonds or notes for and on behalf of the authority shall be liable personally on the bonds or notes of the authority by reason of participation in any way in the issuance of the bonds or notes.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.134. Security Provisions, Etc.

(a) The bonds or notes may be secured by a pledge of all or any part of the revenues or receipts of the authority or by the revenues of any one or more leases or other contracts theretofore or thereafter made or other revenues or income specified by the resolution of the board or in the trust indenture or other instrument securing the bonds or notes. A pledge may reserve the right, under conditions specified in it, to issue additional bonds or notes that will be on a parity with or subordinate to the bonds or notes then being issued.

(b) A pledge or security instrument made by the authority is valid and binding from the time when it is made. The revenues or money pledged and entrusted and thereafter received by the authority shall immediately be subject to the lien of the pledge or security instrument without any physical delivery of it or further act. The lien of the pledge or security instrument is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice thereof. Neither the resolution nor any security instrument or other instrument by which a pledge or security interest is created need be recorded or filed, and compliance with any provision of any other law is not required in order to perfect the pledge or other security interest.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.135. Provisions of Resolution

A resolution authorizing bonds or notes or a trust indenture under which bonds or notes may be issued may contain provisions, which shall be a part of the agreement with the holders of bonds or notes, as to:

(1) pledging all or any part of the rentals, rates, fees, and other charges made or received by the authority and other money received or to be received from the planning, financing, ownership, operation, or sale of or otherwise in connection with any project to secure the payment of the

bonds or notes or of any issue of the bonds or notes;

(2) pledging all or any part of the assets of the authority, including any obligation acquired by the authority, to secure the payment of the bonds or notes or any issue of the bonds or notes;

(3) the use and disposition of rentals, rates, fees, and other charges made or received by the authority;

(4) pledging to establish, alter, and collect rates and other charges with respect to each property or facility sufficient to produce revenues adequate to pay all expenses necessary to the operation and maintenance of such to be made in respect of any of those bonds or notes payable out of those revenues as the bonds or notes become due and payable, and to fulfill the terms of any agreement made with the holders of the bonds or notes and with any person in their behalf;

(5) the setting aside of reserves or sinking funds and the regulation and disposition of those reserves and sinking funds;

(6) limitations on the purpose to which the proceeds from the sale of the bonds may be applied and pledging the proceeds to secure the payment of the bonds, notes, or any issue of the notes or bonds;

(7) limitations on the issuance of additional bonds and on the refunding of outstanding or other bonds or notes;

(8) the acquisition, construction, improvement, operation, extension, enlargement, maintenance, and repair of any project and the duties of the authority with reference thereto;

(9) the procedure, if any, by which the terms of any agreement with bondholders or noteholders may be amended or abrogated, the amount of bonds or notes the holders of which are required to give consent thereto, and the manner in which the consent may be given;

(10) limitations on the amount of money to be spent by the authority for administrative or other expenses;

(11) vesting in a trustee or other fiduciary, property, rights, powers, and duties in trust the authority determines, which may include any of the rights, powers, and duties of the trustee appointed by the bondholders or noteholders pursuant to this chapter, and abrogating the right of the bondholders or noteholders to appoint a trustee under this chapter or limiting the rights, powers, and duties of the trustee;

(12) placing the management, operation, and control of specified works and facilities of the authority in the hands of a board of trustees to be named in the resolution or trust indenture and specifying the terms of office of the trustees, their powers and duties, the manner of exercising the same, the appointment of successors, and all matters pertaining to their organization and duties; and

(13) any other matters, of like or different character, which in any way affect the security or protection of the bonds or notes or the bondholders or noteholders.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.136. Default Provisions

The resolution authorizing the issuance of the bonds or notes or the trust indenture or other instrument securing them may provide that in the event of a default or, under the conditions therein stated, a threatened default in the payment of principal or of interest on bonds or notes, any court of competent jurisdiction may, on petition of the holders of outstanding bonds or notes, appoint a receiver with authority to collect and receive pledged income, and those instruments may limit or qualify the rights of less than all of the holders of the outstanding bonds or notes payable from the same source to institute or prosecute any litigation affecting the authority's properties or revenues.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.137. Additional Security

(a) Any bonds or notes, including refunding bonds, authorized by this chapter may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers situated either within or without the state.

(b) The bonds or notes, within the discretion of the board, may be additionally secured by a mortgage or a deed of trust lien or security interest on works and facilities of the authority and all real property, franchises, easements, leases, and contracts and all rights appurtenant to those properties, vesting in the trustee power to sell those works and facilities for the payment of the indebtedness and to operate those works and facilities, and all other powers and authority for the further security of the bonds or notes.

(c) The trust indenture, regardless of the mortgage or the deed of trust lien or security interest in the properties, may contain any provisions prescribed by the authority for the security of the bonds or notes and the preservation of the trust estate, may make provision for amendment or modification thereof, may condition the right to spend the authority's money or sell the authority's works and facilities on approval of a registered professional engineer selected as provided in the trust indenture, and may make any other provisions for protecting and enforcing the rights and remedies of the bondholders or noteholders as may be reasonable and proper and not in violation of the law. The trust indenture may also contain provisions governing the issuance of bonds and notes to replace lost, stolen, or mutilated bonds or notes.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.138. **Bond Proceeds**

(a) The board may direct the investment of money in the funds created by the resolutions, trust indentures, or other instruments securing the bonds or notes.

(b) From the proceeds from the sale of the bonds or notes, the board may set aside amounts for payments into the interest and sinking fund until completion of construction and until adequate revenue is available from operations to pay principal and interest and amounts for payments into reserve funds, and provisions for such may be made in the resolution authorizing the bonds, notes, or the trust indenture or other instrument securing the bonds or notes.

(c) Proceeds from the sale of the bonds or notes shall be used for the payment of all expenses of issuing and selling the bonds or notes.

(d) The proceeds from the sale of the bonds or notes and money in any funds created in connection with the bonds or notes may be invested in:

(1) direct or indirect obligations of or obligations unconditionally guaranteed by the United States government or one of its agencies maturing in the manner that may be specified by the resolution authorizing the bonds or notes or the trust indenture or other instrument securing the bonds or notes; or

(2) certificates of deposit of any bank or trust company whose deposits are secured by the obligations described in Subdivision (1) of this subsection.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.139. **Depository**

Any bank or trust company located in this state and incorporated under the laws of the United States or any state in the United States may be designated by resolution to act as depository for the proceeds of bonds, notes, or contract or lease revenues or other revenues of the authority. The bank or trust company shall furnish indemnifying bonds or pledge securities to secure those deposits to the same extent as may be required by general law to secure the deposit of state funds.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.140. **Refunding**

(a) The board may provide by resolution for the issuance of refunding bonds or notes to refund outstanding bonds or notes issued under this chapter and their accrued interest.

(b) The authority may sell these bonds or notes and use the proceeds to retire the outstanding bonds or notes issued under this chapter or the authority may exchange the refunding bonds or notes for the outstanding bonds or notes.

(c) The issuance of the refunding bonds or notes, their maturity, the rights of the bondholders and the duties of the authority with respect to refunding bonds or notes are governed by the provisions of this chapter relating to original bonds or notes, to the extent that they may be made applicable.

(d) The authority may also refund any bonds or notes under the provisions of general law.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.141. **Approval and Registration of Bonds and Notes**

(a) After bonds and notes, including refunding bonds and notes, are authorized by the board, those bonds and notes and the record relating to their issuance shall be submitted to the attorney general for his examination as to their validity.

(b) If the bonds and notes recite that they are secured by a pledge of the proceeds of any lease or other contract previously made between the authority and any person, those leases and contracts may also be submitted to the attorney general.

(c) If those bonds or notes have been validly authorized and if those leases or contracts have been made in accordance with the constitution and laws of the state, the attorney general shall approve the bonds or notes, and the leases or contracts and the bonds or notes shall be registered by the state comptroller.

(d) The attorney general in approving bonds or notes issued in anticipation of being refunded by other bonds and notes shall not require as a condition of his approval that those bonds or notes being examined have pledged to them sufficient revenues to retire the bonds and notes before the time they will be refunded in accordance with such anticipation.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.142. **Incontestability**

After the bonds or notes, and the leases or other contracts, if any, have been approved by the attorney general, and the bonds and notes have been registered by the state comptroller and delivered to the purchasers, those bonds and notes and any underlying leases and contracts are incontestable for any cause.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.143. **Duties Enforceable by Mandamus**

Payment of any bonds and notes according to the term and tenor, performance of agreements with the holders of bonds or notes or any person in their behalf, and performance of official duties prescribed by the provisions of this chapter in connection with any bonds or notes may be enforced in any court of

competent jurisdiction by mandamus or other appropriate proceeding.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.144. Bonds Negotiable

Bonds issued under the provisions of this chapter and coupons, if any, representing interest on those bonds, shall, when delivered, be deemed and construed to be a "security" within the meaning of Chapter 8 of the Uniform Commercial Code, as amended.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.145. Bonds and Notes not Taxable

Bonds and notes issued under the provisions of this chapter, the interest on the bonds and notes, and the profit from the sale of the bonds and notes shall be exempt from taxation, except inheritance taxes, by the state or by any municipal corporation, county, or other political subdivision or taxing district of the state.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.146. Authorized Investments

Bonds and notes issued under this chapter are legal and authorized investments for:

- (1) banks;
- (2) savings banks;
- (3) trust companies;
- (4) building and loan associations;
- (5) insurance companies;
- (6) fiduciaries;
- (7) trustees; and
- (8) sinking funds of the state and of cities, towns, villages, counties, school districts, and all political corporations, subdivisions, and public agencies of the state.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.147. Security for Deposit of Funds

Bonds and notes issued under the provisions of this chapter, when accompanied by all appurtenant unmatured coupons if any, are lawful and sufficient security for all deposits of funds of the state or of a city, town, village, county, school district, or any other agency or political corporation or subdivision of the state, at the par value of the bonds.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.148. Source of Repayment

Bonds and notes issued under the provisions of this chapter together with the interest on the bonds and notes shall be secured by and payable solely from the revenues and receipts of the authority and other money available therefor, including, without

limitation, rentals, rates, fees, and other charges made and received by the authority and other money received and to be received from grants and assistance, and other money received and to be received from the planning, financing, ownership, or operation of any works and facilities of the authority, and other money available therefor from proceeds of bonds or notes.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

§ 19.149. State Credit not Pledged

(a) The provisions of this chapter shall not be construed to authorize the giving or lending of the credit of the state or to be a pledge of the credit of the state for the payment of any bonds or notes issued under the provisions of this chapter, and the purchasers and successive holders of any bonds or notes shall never have the right to demand payment from any money or revenues of the authority except those pledged to the payment of bonds or notes.

(b) This chapter shall not be construed as obligating this state to the holders of any of those bonds or notes nor to constitute a contract on the part of this state to make money available for any of the authority's needs.

(c) This state, however, pledges and agrees to the holders of any bonds or notes issued under this chapter that it will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders thereof consistent herewith, or in any way impair the rights and remedies of the holders until the bonds and notes, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses for which the authority is liable in connection with any action or proceedings by or on behalf of the holders, are fully met and discharged. The authority shall include this pledge and agreement of the state in any agreements it makes with the holders of the bonds or notes.

[Acts 1977, 65th Leg., 1st C.S., p. 59, ch. 5, § 1, eff. Aug. 29, 1977.]

[Chapter 20 to 25 reserved for expansion]

SUBTITLE D. WATER QUALITY CONTROL

CHAPTER 26. WATER QUALITY CONTROL

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977, for disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. ADMINISTRATIVE PROVISIONS

§ 26.001. Definitions

Text of section effective until delegation of NPDES permit authority

As used in this chapter:

(1) "Board" means the Texas Water Development Board.

(2) "Commission" means the Texas Water Commission.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(7) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

(8) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.

(9) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

(10) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farm land.

(11) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

(12) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids,

chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste, that may cause impairment of the quality of water in the state. "Other waste" also includes tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland that may cause impairment of the quality of the water in the state.

(13) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(14) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(15) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.

(16) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

(17) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution.

(18) "Permit" means an order issued by the commission in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water and specifying the conditions under which the discharge may be made.

(19) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.001, post

§ 26.001. Definitions

Text of section effective upon delegation of NPDES permit authority

As used in this chapter:

(1) "Board" means the Texas Water Development Board.

(2) "Commission" means the Texas Water Commission.

(3) "Executive director" means the executive director of the Texas Department of Water Resources.

(4) "Department" means the Texas Department of Water Resources.

(5) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this section.

(7) "Sewage" means waterborne human waste and waste from domestic activities, such as washing, bathing, and food preparation.

(8) "Municipal waste" means waterborne liquid, gaseous, or solid substances that result from any discharge from a publicly owned sewer system, treatment facility, or disposal system.

(9) "Recreational waste" means waterborne liquid, gaseous, or solid substances that emanate from any public or private park, beach, or recreational area.

(10) "Agricultural waste" means waterborne liquid, gaseous, or solid substances that arise from the agricultural industry and agricultural activities, including without limitation agricultural animal feeding pens and lots, structures for housing and feeding agricultural animals, and processing facilities for agricultural products. The term "agricultural waste" does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated range land, pasture land, and farmland.

(11) "Industrial waste" means waterborne liquid, gaseous, or solid substances that result from any process of industry, manufacturing, trade, or business.

(12) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste.

(13) "Pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any water in the state. The term "pollutant" does not include tail water or runoff

water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland.

(14) "Pollution" means the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(15) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(16) "Treatment facility" means any plant, disposal field, lagoon, incinerator, area devoted to sanitary landfills, or other facility installed for the purpose of treating, neutralizing, or stabilizing waste.

(17) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

(18) "Local government" means an incorporated city, a county, a river authority, or a water district or authority acting under Article III, Section 52 or Article XVI, Section 59 of the Texas Constitution.

(19) "Permit" means an order issued by the commission in accordance with the procedures prescribed in this chapter establishing the treatment which shall be given to wastes being discharged into or adjacent to any water in the state to preserve and enhance the quality of the water and specifying the conditions under which the discharge may be made.

(20) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

(21) "Point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants or wastes are or may be discharged into or adjacent to any water in the state.

(22) "Identified state supplement to an NPDES permit" means any part of a permit on which the board has entered a written designation to indicate that the board has adopted that part solely in order to carry out the board's duties under state statutes and not in pursuance of administration undertaken to carry out a permit program under approval by the Administrator of the United States Environmental Protection Agency.

(23) "NPDES" means the National Pollutant Discharge Elimination System under which the Administrator of the United States Environmental Protection Agency can delegate permitting authority to the State of Texas in accordance with

Section 402(b) of the Federal Water Pollution Control Act.¹

(24) "Treatment works" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement this chapter or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including:

(A) intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances;

(B) extensions, improvements, remodeling, additions, and alterations of the items in Paragraph (A) of this subdivision;

(C) elements essential to provide a reliable recycled supply such as standby treatment units and clear-well facilities;

(D) any works, including sites and acquisition of the land that will be a part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment;

(E) any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste; and

(F) facilities to provide for the collection, control, and disposal of waste heat.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 985, ch. 367, § 43, eff. June 10, 1981.]

¹ 33 U.S.C.A. § 1342(b).

For text of section effective until delegation of NPDES permit authority, see § 26.001, ante

Section 12 of Acts 1977, 65th Leg., p. 1647, ch. 644, provided: "This Act shall take effect upon full or partial delegation of NPDES permit authority to the board by the Administrator of the United States Environmental Protection Agency pursuant to Section 402(b) of the Federal Water Pollution Control Act but shall not be construed to affect persons discharging, proposing to discharge or threatening to discharge wastes or pollutants over which the board does not have such delegated NPDES permit authority. In no event, however, shall this Act become effective prior to October 1, 1977. The provisions of this Act shall be effective only during such periods that the board maintains such NPDES permit authority."

§ 26.002. Ownership of Underground Water

Nothing in this chapter affects ownership rights in underground water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.003. Policy of This Subchapter

It is the policy of this state and the purpose of this subchapter to maintain the quality of water in the state consistent with the public health and enjoyment, the propagation and protection of terrestrial and aquatic life, the operation of existing industries, and the economic development of the state; to encourage and promote the development and use of

regional and areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state; and to require the use of all reasonable methods to implement this policy.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.004 to 26.010 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS AND DUTIES

§ 26.011. In General

Except as otherwise specifically provided, the department shall administer the provisions of this chapter and shall establish the level of quality to be maintained in, and shall control the quality of, the water in this state as provided by this chapter. Waste discharges or impending waste discharges covered by the provisions of this chapter are subject to reasonable rules or orders adopted or issued by the department in the public interest. The department has the powers and duties specifically prescribed by this chapter and all other powers necessary or convenient to carry out its responsibilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.012. State Water Quality Plan

The executive director shall prepare and develop a general, comprehensive plan for the control of water quality in the state which shall be used as a flexible guide by the department when approved by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.013. Research, Investigations

The executive director shall conduct or have conducted any research and investigations it considers advisable and necessary for the discharge of the duties under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.014. Power to Enter Property

Text of section effective until delegation of NPDES permit authority

The members of the commission and employees and agents of the department are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state. Members, employees, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper

credentials. If any member, employee, or agent is refused the right to enter in or on public or private property under this authority, the executive director may invoke the remedies authorized in Section 26.123 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.014, post

§ 26.014. Power to Enter Property

Text of section effective upon delegation of NPDES permit authority

The members of the commission and employees and agents of the department are entitled to enter any public or private property at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit or other order of the department. Members, employees, or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection, and if the property has management in residence, shall notify management or the person then in charge of his presence and shall exhibit proper credentials. If any member, employee, or agent is refused the right to enter in or on public or private property under this authority, the executive director may invoke the remedies authorized in Section 26.123 of this code.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective until delegation of NPDES permit authority, see § 26.014, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.015. Power to Examine Records

Text of section effective until delegation of NPDES permit authority

The members of the commission and employees and agents of the department may examine during regular business hours any records or memoranda pertaining to the operation of any sewer system, disposal system, or treatment facility or pertaining to any discharge of waste.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.015, post

§ 26.015. Power to Examine Records

Text of section effective upon delegation of NPDES permit authority

The members of the commission and employees and agents of the department may examine and copy during regular business hours any records or memoranda pertaining to the operation of any sewer system, disposal system, or treatment facility or pertaining to any discharge of waste or pollutants into any water in the state, or any other records required to be maintained.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective until delegation of NPDES permit authority, see § 26.015, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.016. Enforcement Proceedings

The executive director may institute court proceedings to compel compliance with the provisions of this chapter or the rules, orders, permits, or other decisions of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.017. Cooperation

The department shall:

(1) encourage voluntary cooperation by the people, cities, industries, associations, agricultural interests, and representatives of other interests in preserving the greatest possible utility of water in the state;

(2) encourage the formation and organization of cooperative groups, associations, cities, industries, and other water users for the purpose of providing a medium to discuss and formulate plans for attainment of water quality control;

(3) establish policies and procedures for securing close cooperation among state agencies that have water quality control functions; and

(4) cooperate with the governments of the United States and other states and with official or unofficial agencies and organizations with respect to water quality control matters and with respect to formulation of interstate water quality control compacts or agreements, and when representation of state interests on a basin planning agency for water quality purposes is required under Section 3(c) of the Federal Water Pollution Control Act, as amended,¹ or other federal legislation having a similar purpose, the representation shall include an officer or employee of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ See 33 U.S.C.A. § 1252(c).

§ 26.018. Contracts, Instruments

With the approval of the board, the executive director may make contracts and execute instruments that are necessary or convenient to the exercise of the department's powers or the performance of its duties.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.019. Orders

(a) The commission is authorized to issue orders and make determinations necessary to effectuate the purposes of this chapter.

(b) The commission shall set forth the findings on which it bases any order granting or denying special relief requested of the commission or involving a determination following a hearing on an alleged violation of Section 26.121 of this code or directing a person to perform or refrain from performing a certain act or activity.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.0191. Temporary Orders and Authorizations to Discharge Untreated or Partially Treated Wastewater

(a) The commission may issue temporary or emergency orders relating to the discharge of waste or pollutants without notice and hearing, or with such notice and hearing as the commission considers practicable under the circumstances, when this is necessary to enable action to be taken more expeditiously than is otherwise provided by this chapter to effectuate the policy and purposes of this chapter.

(b) If the commission issues a temporary or emergency order under this authority without a hearing, the order shall fix a time and place for a hearing to be held before the commission, which shall be held as soon after the temporary or emergency order is issued as is practicable.

(c) At the hearing, the commission shall affirm, modify, or set aside the temporary or emergency order. If the nature of the commission's action requires, further proceedings shall be conducted as appropriate under provisions of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), and the rules of the department.

(d) The executive director may authorize the discharge of untreated or partially treated wastewater from a permitted facility into or adjacent to water in the state if he determines that the discharge is unavoidable to prevent loss of life, serious injury, or severe property damage or to make necessary and unforeseen repairs to the facility and that there are no feasible alternatives to the discharge, and the commission shall hold a hearing as provided for in Subsection (b) of this section.

(e) The requirements of Section 26.022 of this code relating to the time for notice, newspaper

notice, and method of giving a person notice do not apply to a hearing held under this section, but such general notice of the hearing shall be given as the commission, under Subsections (a) and (c) of this section or the executive director under Subsection (d) of this section, considers practicable under the circumstances.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 26.020. Hearing Powers

The commission may call and hold hearings, administer oaths, receive evidence at the hearing, issue subpoenas to compel the attendance of witnesses and the production of papers and documents related to the hearing, and make findings of fact and decisions with respect to administering the provisions of this chapter or the rules, orders, or other actions of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.021. Delegation of Hearing Powers

(a) Except for those hearings required to be held before the commission under Section 26.0191(b) of this code, the commission may authorize the chief hearing examiner to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief hearing examiner to delegate to one or more hearing examiners the authority to hold any hearing called by him.

(c) At any hearing called by the chief hearing examiner, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence.

(d) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 8, eff. June 10, 1981.]

§ 26.022. Notice of Hearings; Continuance

(a) Except as otherwise provided in Sections 26.0191 and 26.176 of this code, the provisions of this section apply to all hearings conducted in compliance with this chapter.

(b) Notice of the hearing shall be published at least once in a newspaper regularly published or circulated in each county where, by virtue of the county's geographical relation to the subject matter of the hearing, the commission has reason to believe persons reside who may be affected by the action that may be taken as a result of the hearing. The date of the publication shall be not less than 20 days before the date set for the hearing.

(c) If notice of the hearing is required by this chapter to be given to a person, the notice shall be served personally or mailed not less than 20 days before the date set for the hearing to the person at his last address known to the commission. If the party is not an individual, the notice may be given to any officer, agent, or legal representative of the party.

(d) The individual or individuals holding the hearing, called the hearing body, shall conduct the hearing at the time and place stated in the notice. The hearing body may continue the hearing from time to time and from place to place without the necessity of publishing, serving, mailing, or otherwise issuing a new notice.

(e) If a hearing is continued and a time and place for the hearing to reconvene are not publicly announced by the person conducting the hearing at the hearing before it is recessed, a notice of any further setting of the hearing shall be served personally or mailed in the manner prescribed in Subsection (c) of this section at a reasonable time before the new setting, but it is not necessary to publish a newspaper notice of the new setting.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.023. Water Quality Standards

The board by rule shall set water quality standards for the water in the state and may amend the standards from time to time. The board has the sole and exclusive authority to set water quality standards for all water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.024. Hearings on Standards; Consultation

Before setting or amending water quality standards, the board shall:

- (1) hold public hearings at which any person may appear and present evidence under oath, pertinent for consideration by the board; and
- (2) consult with the executive director to insure that the proposed standards are not inconsistent with the objectives of the state water plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.025. Hearings on Standards: Notice to Whom

Notice of a hearing under Section 26.024 of this code shall be given to each of the following that the board believes may be affected:

- (1) each local government whose boundary is contiguous to the water in question or whose boundaries contain all or part of the water, or through whose boundaries the water flows;
- (2) the holders of rights to appropriate water from the water in question as shown by the records of the department; and

(3) the holders of permits from the commission to discharge waste into or adjacent to the water in question.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.026. Standards to be Published

The department shall publish its water quality standards and amendments and shall make copies available to the public on written request.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.027. Commission May Issue Permits

Text of section effective until delegation of NPDES permit authority

(a) The commission may issue permits and amendments to permits for the discharge of waste into or adjacent to water in the state.

(b) A person desiring to obtain a permit or to amend a permit shall submit an application to the department containing all information reasonably required by the department.

(c) A person may not commence construction of a treatment facility until the commission has issued a permit to authorize the discharge of waste from the facility, except with the approval of the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.027, post

§ 26.027. Commission May Issue Permits

Text of section effective upon delegation of NPDES permit authority

(a) The commission may issue permits and amendments to permits for the discharge of waste or pollutants into or adjacent to water in the state. No permit shall be issued authorizing the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste. The commission may refuse to issue a permit when the commission finds that issuance of the permit would violate the provisions of any state or federal law or rule or regulation promulgated thereunder, or when the commission finds that issuance of the permit would interfere with the purpose of this chapter.

(b) A person desiring to obtain a permit or to amend a permit shall submit an application to the department containing all information reasonably required by the department.

(c) A person may not commence construction of a treatment facility until the commission has issued a permit to authorize the discharge of waste from the facility, except with the approval of the commission.

(d) The commission may not require under this chapter any permit for the placing of dredged or fill

materials into or adjacent to water in the state for the purpose of constructing, modifying, or maintaining facilities or structures, but this does not change or limit any authority the commission may have with respect to the control of water quality. The commission may adopt rules and regulations to govern and control the discharge of dredged or fill materials consistent with the purpose of this chapter.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 7; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective until delegation of NPDES permit authority, see § 26.027, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.028. Action on Application

(a) Except as provided in Subsections (b) and (c) of this section, notice shall be given to the persons who in the judgment of the commission may be affected by an application for a permit, permit amendment, or renewal of a permit. The commission, on the motion of a commissioner, or on the request of the executive director or any affected person, shall hold a public hearing on the application for a permit, permit amendment, or renewal of a permit.

(b) An application to amend a permit to improve the quality of waste authorized to be discharged may be set for consideration and may be acted on by the commission at a regular meeting without the necessity of holding a public hearing if the applicant does not seek to increase significantly the quantity of waste authorized to be discharged or change materially the pattern or place of discharge. Notice of the application shall be mailed to the mayor and health authorities for the city or town, and the county judge and health authorities for the county, in which the waste is or will be discharged, at least 10 days before the commission meeting, and they may present information to the commission on the application.

(c) An application to renew a permit for a confined animal feeding operation which was issued between July 1, 1974, and December 31, 1977, may be set for consideration and may be acted on by the commission at a regular meeting without the necessity of holding a public hearing if the applicant does not seek to discharge into or adjacent to water in the state and does not seek to change materially the pattern or place of disposal.

(d) For the purposes of Subsection (a), the commission may act on the application without holding a public hearing if all of the following conditions are met:

(1) not less than 30 days before the date of action on the application by the commission, the applicant has published the commission's notice of the application at least once in a newspaper regu-

larly published or circulated within each county where the proposed facility or discharge is located and in each county affected by the discharge;

(2) not less than 30 days before the date of action on the application by the commission, the applicant has served or mailed the commission's notice of the application to persons who in the judgment of the commission may be affected. As part of his application the applicant shall submit an affidavit which lists the names and addresses of the persons who may be affected by the application and includes the source of the list;

(3) within 30 days after the date of the newspaper publication of the commission's notice, neither a commissioner, the executive director, nor an affected person who objects to the application has requested a public hearing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 1984, ch. 781, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 3156, ch. 828, § 6, eff. June 17, 1981.]

§ 26.029. Conditions of Permit; Amendment; Revocation and Suspension

Text of section effective until delegation of NPDES permit authority

(a) In each permit, the commission shall prescribe the conditions on which it is issued, including:

- (1) the duration of the permit;
- (2) the location of the point of discharge of the waste;
- (3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;
- (4) the character and quality of waste that may be discharged under the permit; and
- (5) any monitoring and reporting requirements prescribed by the commission for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the commission may require the permittee, from time to time, for good cause, to conform to new or additional conditions. The commission shall allow the permittee a reasonable time to conform to the new or additional conditions, and on application of the permittee, the commission may grant additional time.

(c) A permit does not become a vested right in the permittee. After a public hearing, notice of which shall be given to the permittee, the commission may revoke or suspend a permit for good cause on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Section 26.084 of this code;
- (3) the permit or operations under the permit have been abandoned; or
- (4) the permit is no longer needed by the permittee.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his last known address as shown by the records of the department.

(e) If the permittee requests or consents to the revocation or suspension of the permit, the executive director may revoke or suspend the permit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 985, ch. 367, § 44, eff. June 10, 1981.]

For text of section effective upon delegation of NPDES permit authority, see § 26.029, post

§ 26.029. Conditions of Permit; Amendment; Revocation and Suspension

Text of section effective upon delegation of NPDES permit authority

(a) In each permit, the commission shall prescribe the conditions on which it is issued, including:

- (1) the duration of the permit;
- (2) the location of the point of discharge of the waste;
- (3) the maximum quantity of waste that may be discharged under the permit at any time and from time to time;
- (4) the character and quality of waste that may be discharged under the permit; and
- (5) any monitoring and reporting requirements prescribed by the commission for the permittee.

(b) After a public hearing, notice of which shall be given to the permittee, the commission may require the permittee, from time to time, for good cause, in conformance with applicable laws, to conform to new or additional conditions.

(c) A permit does not become a vested right in the permittee. After a public hearing in conformance with applicable laws, notice of which shall be given to the permittee, the commission may revoke or suspend a permit for good cause on any of the following grounds:

- (1) the permittee has failed or is failing to comply with the conditions of the permit;
- (2) the permit is subject to cancellation or suspension under Section 26.084 of this code;
- (3) the permit or operations under the permit have been abandoned;
- (4) the permit is no longer needed by the permittee;
- (5) the commission finds that a change in conditions requires elimination of the discharge;
- (6) revocation or suspension is necessary in order to maintain the quality of water in the state consistent with the objectives of this chapter; or
- (7) the permit was obtained by misrepresentation or failure to disclose fully all relevant facts.

(d) The notice required by Subsections (b) and (c) of this section shall be sent to the permittee at his

last known address as shown by the records of the department.

(e) If the permittee requests or consents to the revocation or suspension of the permit, the executive director may revoke or suspend the permit.

[Amended by Acts 1977, 65th Leg., p. 1646, ch. 644, § 8; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 985, ch. 367, § 44, eff. June 10, 1981.]

For text of section effective until delegation of NPDES permit authority, see § 26.029 ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

Section 45 of the 1981 amendatory act provides:

"Section 26.029, Water Code, as amended by this Act, takes effect at the same time as other sections of this Act and shall remain in effect without regard to the assumption of full or partial delegation of NPDES permit authority by the department from the administrator of the United States Environmental Protection Agency under Section 402(h) of the Federal Water Pollution Control Act or the maintenance of the NPDES permit authority."

§ 26.0291. Waste Treatment Inspection Fee

(a) An annual waste treatment inspection fee is imposed on each permittee for each waste discharge permit held by the permittee. The fee is to supplement any other funds available to pay expenses of the department in inspecting waste treatment facilities and enforcing the laws of the state, and the rules of the Texas Department of Water Resources, governing waste discharge and waste treatment facilities. The fee for each year is imposed on each permit in effect during any part of the year.

(b) The board, by rule, shall adopt a fee schedule for determining the amount of the fee to be charged. The amounts of the fees in such schedule shall be proportional to the average volume of discharge specified in the permit, beginning at \$100 for a zero discharge or small discharge, and a maximum of \$2,000 for the largest average volume of discharge in the state. The annual fee to be charged each permittee shall be that set by the fee schedule adopted by the board.

(c) The fees collected under this section shall be deposited in a special fund in the state treasury to be known as the waste treatment facility inspection fund. Money in the fund shall be used to supplement any other funds available for paying expenses of the department in inspecting waste treatment facilities.

(d) The board may adopt rules necessary to administer this section.

(e) A fee collected under this section is in addition to any other fee that may be charged under this chapter.

[Acts 1983, 68th Leg., p. 2442, ch. 435, § 1, eff. Aug. 29, 1983.]

§ 26.030. Permit: Effect on Recreational Water

In considering the issuance of a permit to discharge effluent into any body of water having an established recreational standard, the commission shall consider any unpleasant odor quality of the effluent and the possible adverse effect that it might have on the receiving body of water, and the commission may consider the odor as one of the elements of the water quality of the effluent.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.031. Private Sewage Facilities

(a) As used in this section and Section 26.032 of this code, "private sewage facilities" means septic tanks, pit privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage, chemical toilets, treatment tanks, and all other facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

(b) Whenever it appears that the use of private sewage facilities in an area is causing or may cause pollution or is injuring or may injure the public health, the board may hold a public hearing in or near the area to determine whether rules should be adopted controlling or prohibiting the installation or use of private sewage facilities in the area.

(c) Before the board adopts its rules, the executive director shall consult with the commissioner of the Texas Department of Health for recommendations concerning the impact of the use of private sewage facilities in the area on public health and present the recommendations at the hearing.

(d) If the board finds after the hearing that the use of private sewage facilities in an area is causing or may cause pollution or is injuring or may injure the public health, the board may adopt rules as it may consider appropriate to abate or prevent pollution or injury to public health.

(e) The rules may, without limitation, do one or more of the following:

- (1) limit the number and kind of private sewage facilities which may be used in the area;
- (2) prohibit the installation and use of additional private sewage facilities or kinds of private sewage facilities in the area;
- (3) require modifications or improvements to existing private sewage facilities or impose limitations on their use; and
- (4) provide for a gradual and systematic reduction of the number or kinds of private sewage facilities in the area.

(f) The board may provide in the rules for a system of licensing of private sewage facilities in the area, including procedures for cancellation of a license for violation of this section, the license, or the rules of the department. The board may also provide in the system of licensing for periodic re-

newal of the licenses, but this may not be required more frequently than once a year.

(g) The board may delegate the licensing function and the administration of the licensing system to the executive director or to any local government whose boundaries include the area or which has been designated by the board under Sections 26.081 through 26.086 of this code as the agency to develop a regional waste disposal system which includes the area or to any district or authority created and existing under Article XVI, Section 59 or Article III, Section 52 of the Texas Constitution, which owns or operates a dam or reservoir project within the area regulated.

(h) The board also may prescribe and require the payment of reasonable license fees by an applicant for a license, including fees for periodic renewal of a license. The board may change the amount of the license fees from time to time. The amount of the fees shall be based on the reasonable cost of performing the licensing function and administering the licensing system, including, where applicable, costs of soil percolation and other tests to determine the suitability of using a particular type or types of private sewage facilities in the area or at any location within the area, field inspections, travel, and other costs directly attributable to performing the licensing function and administering the licensing system.

(i) If the board or the executive director has the responsibility for performing the licensing function, the license fees shall be paid to the department. Those fees shall not be deposited in the General Revenue Fund of the state but shall be deposited in a special fund for use by the department in performing the licensing function and administering the licensing system, and the fees so deposited are hereby appropriated to the department to use for those purposes only.

(j) If a local government has the responsibility for performing the licensing function, the fees shall be paid to the local government.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 26.032. Control by Counties

(a) Whenever it appears to the commissioners court of any county that the use of private sewage facilities in an area within the county is causing or may cause pollution or is injuring or may injure the public health, the county may proceed in the same manner and in accordance with the same procedures as the board to hold a public hearing and enter an order, resolution, or other rule as it may consider appropriate to abate or prevent pollution or injury to public health.

(b) The order, resolution, or other rule may provide the same restrictions and requirements as are authorized for an order of the board entered under this section.

(c) Before the order, resolution, or other rule becomes effective, the county shall submit it to the board and obtain the board's written approval.

(d) In the event of any conflict within an area between rules adopted by the board and an order, resolution, or other rule adopted by a county under this section, the rules of the board shall take precedence.

(e) Where a system of licensing has been adopted by the board or the commissioners court of a county, no person may install or use private sewage facilities required to be licensed without obtaining a license.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 26.033. Rating of Waste Disposal Systems

(a) After consultation with the Texas Department of Health Resources, the board shall provide by rule for a system of approved ratings for municipal waste disposal systems and other waste disposal systems which the board may designate.

(b) The owner or operator of a municipal waste disposal system which attains an approved rating has the privilege of erecting signs of a design approved by the board on highways approaching or inside the boundaries of the municipality, subject to reasonable restrictions and requirements which may be established by the State Department of Highways and Public Transportation.

(c) In addition, the owner or operator of any waste disposal system, including a municipal system, which attains an approved rating has the privilege of erecting signs of a design approved by the board at locations which may be approved or established by the board, subject to such reasonable restrictions and requirements which may be imposed by any governmental entity having jurisdiction.

(d) If the waste disposal system fails to continue to achieve an approved rating, the commission may revoke the privilege. On due notice from the commission, the owner or operator of the system shall remove the signs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.034. Approval of Disposal System Plans

(a) The executive director shall review and approve plans and specifications for treatment works for which financial assistance is provided in any amount from water quality enhancement funds or funds granted under the Federal Water Pollution Control Act, as amended. The Texas Department of Health shall review and approve plans in those cases where such financial assistance or federal grant has not been requested except when notice of intention to apply for the financial assistance or federal grant has been given to the executive di-

rector in which case the executive director shall perform review and approval functions. Duplicate review and approval will not be performed and actions on review and approval shall be fully interchangeable between the executive director and the Texas Department of Health.

(b) Before beginning construction, every person who proposes to construct or materially alter the efficiency of any treatment works to which this section applies shall submit completed plans and specifications to the executive director for review and approval.

(c) The executive director shall approve the plans and specifications if they conform to the waste discharge requirements and water quality standards established by the commission and the board respectively.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 26.035. Federal Grants

The executive director with the approval of the board may execute agreements with the United States Environmental Protection Agency or any other federal agency that administers programs providing federal cooperation, assistance, grants, or loans for research, development, investigation, training, planning, studies, programming, and construction related to methods, procedures, and facilities for the collection, treatment, and disposal of waste or other water quality control activities. The department may accept federal funds for these purposes and for other purposes consistent with the objectives of this chapter and may use the funds as prescribed by law or as provided by agreement.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.036. Water Quality Management Plans

(a) The executive director shall develop and prepare, and from time to time revise, comprehensive water quality management plans for the different areas of the state, as designated by the board.

(b) The executive director may contract with local governments, regional planning commissions, planning agencies, other state agencies, colleges and universities in the state, and any other qualified and competent person to assist the department in developing and preparing, and from time to time revising, water quality management plans for areas designated by the board.

(c) With funds provided for the purpose by legislative appropriation, the board may make grants or interest-free loans to, or contract with, local governments, regional planning commissions, and planning agencies to pay administrative and other expenses of such entities for developing and preparing, and from time to time revising, water quality management plans for areas designated by the board. The period of time for which funding under this provi-

sion may be provided for developing and preparing or for revising a plan may not exceed three consecutive years in each instance. Any loan made pursuant to this subsection shall be repaid when the construction of any project included in the plan is begun.

(d) Any person developing or revising a plan shall, during the course of the work, consult with the department and with local governments and other federal, state, and local governmental agencies which in the judgment of the executive director may be affected by or have a legitimate interest in the plan.

(e) Insofar as may be practical, the water quality management plans shall be reasonably compatible with the other governmental plans for the area, such as area or regional transportation, public utility, zoning, public education, recreation, housing, and other related development plans.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.037. Approval of Plans

(a) After a water quality management plan has been prepared or significantly revised as authorized in Section 26.036 of this code, it shall be submitted to the board and to such local governments and other federal, state, and local governmental agencies as in the judgment of the executive director may be affected by or have a legitimate interest in the plan.

(b) After a reasonable period of time as determined by the board for the persons to whom the plan was submitted to review and consult on the plan, a public hearing shall be held on whether the plan should be approved or whether the plan should be modified in any way. Notice of the hearing shall be given to the person or persons who prepared or revised the plan and to the persons to whom the plan was submitted for review.

(c) After the public hearing if the board finds that the plan complies with the policy and purpose of this chapter and the rules and policies of the board, it shall approve the plan. If the board does not so find, it may disapprove the plan, modify the plan as necessary so that it will comply, or return it for further development and later resubmission to the board, in accordance with the procedure in Section 26.036 of this code.

(d) When a water quality management plan has been approved as provided in this section, the plan may be furnished to the Federal Environmental Protection Agency, the Federal Water Quality Administration, or any other federal official or agency in fulfillment of any federal water quality management planning requirement specified for any purpose by the federal government.

(e) The board and the commission may use an approved water quality management plan or a plan in progress but not completed or approved in re-

viewing and making determinations on applications for permits and on applications for financial assistance for construction of treatment works.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.038. Fiscal Control on Water Quality Management Planning

In administering the program for making grants and loans to and contracting with local governments, regional planning commissions, and planning agencies as authorized in Subsection (c) of Section 26.036 of this code, the board shall adopt rules and procedures for the necessary engineering review and supervision, fiscal control, and fund accounting. The fiscal control and fund accounting procedures are supplemental to other procedures prescribed by law.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.039. Accidental Discharges and Spills

(a) As used in this section:

(1) "Accidental discharge" means an act or omission through which waste or other substances are inadvertently discharged into water in the state.

(2) "Spill" means an act or omission through which waste or other substances are deposited where, unless controlled or removed, they will drain, seep, run, or otherwise enter water in the state.

(3) "Other substances" means substances which may be useful or valuable and therefore are not ordinarily considered to be waste, but which will cause pollution if discharged into water in the state.

(b) Whenever an accidental discharge or spill occurs at or from any activity or facility which causes or may cause pollution, the individual operating, in charge of, or responsible for the activity or facility shall notify the department as soon as possible and not later than 24 hours after the occurrence.

(c) Activities which are inherently or potentially capable of causing or resulting in the spillage or accidental discharge of waste or other substances and which pose serious or significant threats of pollution are subject to reasonable rules establishing safety and preventive measures which the board may adopt or issue. The safety and preventive measures which may be required shall be commensurate with the potential harm which could result from the escape of the waste or other substances.

(d) The provisions of this section are cumulative of the other provisions in this chapter relating to waste discharges, and nothing in this section exempts any person from complying with or being subject to any other provision of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.040. Control of Certain Waste Discharges by Rule

Whenever the board determines that the quality of water in an area is adversely affected or threatened by the combined effects of several relatively small-quantity discharges of wastes being made for which it is not practical to issue individual permits or that the general nature of a particular type of activity which produces a waste discharge is such that requiring individual permits is unnecessarily burdensome both to the waste discharger and the department, the board may by rule regulate and set the requirements and conditions for the discharges of waste.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.041. Health Hazards

The department may use any means provided by this chapter to prevent a discharge of waste that is injurious to public health.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.042. Monitoring and Reporting

Text of section effective until delegation of NPDES permit authority

The board may prescribe reasonable requirements for a person making waste discharges to monitor and report on his waste collection, treatment, and disposal activities. When in the judgment of the commission significant water quality management benefits will result or water quality management needs justify, the commission may also prescribe reasonable requirements for any person or persons making waste discharges to monitor and report on the quality of any water in the state which the commission has reason to believe may be materially affected by the waste discharges.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.042, post

§ 26.042. Monitoring and Reporting

Text of section effective upon delegation of NPDES permit authority

(a) The board may prescribe reasonable requirements for a person making discharges of any waste or of any pollutant to monitor and report on his activities concerning collection, treatment, and disposal of the waste or pollutant.

(b) The board may, by regulation, order, permit, or otherwise require the owner or operator of any source of a discharge of pollutants into any water in the state or of any source which is an industrial user of a publicly owned treatment works to:

(1) establish and maintain such records;

(2) make such reports;

(3) sample any discharges in accordance with such methods, at such locations, at such intervals, and in such manner as the board shall prescribe; and

(4) provide such other information relating to discharges of pollutants into any water in the state or to introductions of pollutants into publicly owned treatment works as the board may reasonably require.

(c) When in the judgment of the commission significant water quality management benefits will result or water quality management needs justify, the commission may also prescribe reasonable requirements for any person or persons making discharges of any waste or of any pollutant to monitor and report on the quality of any water in the state which the commission has reason to believe may be materially affected by the discharges.

[Amended by Acts 1977, 65th Leg., p. 1640, ch. 644, § 1; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective until delegation of NPDES permit authority, see § 26.042, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.043. The State of Texas Water Pollution Control Compact

(a) The legislature recognizes that various river authorities and municipal water districts and authorities of the state have signed, and that others are authorized to sign and may sign, a document entitled "The State of Texas Water Pollution Control Compact" (hereinafter called the "compact"), which was approved by Order of the Texas Water Quality Board on March 26, 1971, and which is now on file in the official records of the department, wherein each of the signatories is by law an official agency of the state, created pursuant to Article XVI, Section 59 of the Texas Constitution and operating on a multiple county or regional basis, and that collectively those signatories constitute an agency of the state authorized to agree to pay, and to pay, for and on behalf of the state not less than 25 percent of the estimated costs of all water pollution control projects in the state, wherever located, for which federal grants are to be made pursuant to Clause (7), Subsection (b), Section 1158,¹ Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1158), or any similar law, in accordance with and subject to the terms and conditions of the compact. The compact provides a method for taking advantage of increased federal grants for water pollution control projects by virtue of the state payment which will be made from the proceeds from the sale of bonds by the signatories to the compact. The compact is hereby ratified and approved, and it is hereby provided that Section 30.026 of this code shall not constitute a limitation or restriction on any signatory with respect to any

contract entered into pursuant to the compact or with respect to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made, and such signatory shall not be required to obtain the consent of any other river authority or conservation and reclamation district which is not a signatory with respect to any such contract or project. Each signatory to the compact is empowered and authorized to do any and all things and to take any and all action and to execute any and all contracts and documents which are necessary or convenient in carrying out the purposes and objectives of the compact and issuing bonds pursuant thereto, with reference to any water pollution control project in the state, wherever located, for which the aforesaid federal grants are to be made.

(b) It is further found, determined, and enacted that all bonds issued pursuant to said compact and all bonds issued to refund or refinance same are and will be for water quality enhancement purposes, within the meaning of Article III, Section 49-d-1, as amended, of the Texas Constitution and any and all bonds issued by a signatory to said compact to pay for all or any part of a project pursuant to the compact and any bonds issued to refund or refinance any such bonds may be purchased by the Texas Water Development Board with money received from the sale of Texas Water Development Board bonds pursuant to said Article III, Section 49-d-1, as amended, of the Texas Constitution. The bonds or refunding bonds shall be purchased directly from any such signatory at such price as is necessary to provide the state payment and any other part of the cost of the project or necessary to accomplish the refunding, and all purchases shall constitute loans for water quality enhancement. The bonds or refunding bonds shall have the characteristics and be issued on such terms and conditions as are acceptable to the board. The proceeds received by any such signatory from the sale of any such bonds shall be used to provide the state payment pursuant to the compact and any other part of the cost of the project, and the proceeds from the sale of any such refunding bonds to refund any outstanding bonds issued pursuant to the compact shall be used to pay off and retire the bonds being refunded thereby.

(c) This subsection is not intended to interfere in any way with the operation of Article III, Section 49-d-1, as amended, of the Texas Constitution or the enabling legislation enacted pursuant thereto, and the aforesaid compact shall constitute merely a complementary or supplemental method for providing the state payment solely in instances that it is deemed necessary or advisable by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ See, now, 33 U.S.C.A. § 1281 et seq.

§ 26.044. Disposal of Boat Sewage

(a) As used in this section, "boat" means any vessel or other watercraft, whether moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating on water in this state, whether or not capable of self-locomotion, including but not limited to cabin cruisers, houseboats, barges, marinas, and similar floating objects.

(b) The board shall issue rules concerning the disposal of sewage from boats located or operated on inland fresh waters in this state. The rules of the board shall include but not be limited to provisions for the establishment of standards for sewage disposal devices, the certification of sewage disposal devices, including on-shore pump-out facilities, and the visible and conspicuous display of evidence of certification of sewage disposal devices on each boat equipped with such device and on each on-shore pump-out device.

(c) The board may delegate the administration and performance of the certification function to the executive director or to any other governmental entity. The board may prescribe and require the payment, by applicants for certification, of reasonable fees based on the costs of administering and performing the certification function. All certification fees shall be paid to the entity performing the certification function. All fees collected by any state agency shall be deposited in a special fund for use by that agency in administering and performing the certification function and shall not be deposited in the General Revenue Fund of the state.

(d) Before issuing any rules under Subsection (b) of this section, the board or any person authorized by it under Section 26.021 of this code shall hold hearings thereon in Austin and in five other locations in the state in order to provide the best opportunity for all citizens of the state to appear and present evidence to the board.

(e) Notice of the hearing in Austin shall be published at least once in one or more newspapers having general circulation in the state. Notice of each of the other hearings shall be published at least once in one or more newspapers having general circulation in the region in which each hearing is to be held.

(f) Copies of each rule issued by the board under this section shall be filed in the offices of the department in Austin, Texas, in the office of the Secretary of State in Austin, and the office of the county clerk in each county in the state. The board shall provide for publication of notice of each rule issued under this section in at least one newspaper of general circulation in each county of the state and shall furnish the county judge of each county of the state a copy of the rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.045. Pump-Out Facilities for Boat Sewage

(a) In this section:

(1) "Boat" means the same as defined in Section 26.044(a), Water Code.

(2) "Boat pump-out station" means any private or public shoreside installation either independent of or in addition to an organized waste collection, treatment, and disposal system used to receive boat sewage.

(3) "Shoreside installation" means marinas and other installations servicing boats on fresh water of Texas.

(4) "Fresh water" means as geographically applied all of the surface lakes, streams, and reservoirs of the state, exclusive of the extent of ordinary tidal action on this water.

(b) After a public hearing and after making every reasonable effort to bring about the establishment of an adequate number of boat pump-out stations on fresh water, the commission may enter an order requiring the establishment of boat pump-out stations by a local government that has any jurisdiction over at least a portion of the fresh water or over land immediately adjacent to the fresh water.

(c) If a local government is authorized to issue authorization for the operation of shoreside installations, the local government may require the installation and operation of boat pump-out stations where necessary. The local government shall require the installation and operation of boat pump-out stations if required by the commission.

(d) A local government responsible for establishing boat pump-out stations may issue bonds or may use general revenue funds from normal operations to finance the construction and operation of the pump-out facilities. Pump-out stations established as a result of this section will be self-sustaining with respect to costs and revenues collected from users of said facilities, and local governments are authorized to levy reasonable, appropriate charges or fees to recover cost of installation and operation of the pump-out stations. Nothing in this section is to be construed to require any local government to rebate to the State of Texas funds collected pursuant to this program.

(e) The hearings required by this section and other acts of the commission in carrying out the provisions of this section shall be handled as provided in the rules of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.046. Hearings on Protection of Edwards Aquifer From Pollution

(a) As used in this section, "Edwards Aquifer" means that portion of an arcuate belt of porous, waterbearing limestones composed of the Comanche Peak, Edwards, and Georgetown formations trending from west to east to northeast through Kinney, Uvalde, Medina, Bexar, Kendall, Comal, and Hays

counties, respectively, and as defined in the most recent rules of the board for the protection of the quality of the potable underground water in those counties.

(b) Annually, the board shall hold a public hearing in Kinney, Uvalde, Medina, Bexar, Kendall, Comal, or Hays County, and a hearing in any other of those counties whose commissioners court requests that a hearing be held in its county, to receive evidence from the public on actions the board should take to protect the Edwards Aquifer from pollution. Notice of the public hearing shall be given and the hearing shall be conducted in accordance with the rules of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

[§ 26.047].¹ Permit Conditions and Pretreatment Standards Concerning Publicly Owned Treatment Works

Text of section added effective upon delegation of NPDES permit authority

(a) The board shall impose as conditions in permits for the discharge of pollutants from publicly owned treatment works requirements for information to be provided by the permittee concerning new introductions of pollutants or substantial changes in the volume or character of pollutants being introduced into such treatment works.

(b) The board is authorized to impose as conditions in permits for the discharge of pollutants from publicly owned treatment works appropriate measures to establish and insure compliance by industrial users with any system of user charges required under state or federal law or any regulations or guidelines promulgated thereunder.

(c) The board is authorized to apply, and to enforce pursuant to Subchapter E of this code,² against industrial users of publicly owned treatment works, toxic effluent standards and pretreatment standards for the introduction into such treatment works of pollutants which interfere with, pass through, or otherwise are incompatible with such treatment works.

[Acts 1977, 65th Leg., p. 1646, ch. 644, § 9.]

¹ Enacted as § 21.099 by Acts 1977, 65th Leg., p. 1646, ch. 644, § 9, and editorially reclassified.

² See, now, Subchapter D of this chapter, § 26.121 et seq.

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

[§ 26.048].¹ Federal Grants for the Construction of Treatment Works; Processing Fees

(a) The board may execute agreements with the United States Environmental Protection Agency or its successor agency and any other federal agency that administers programs providing federal grants to local governments for the construction of treat-

ment works, as defined in Section 21.602² of this code. The board may exercise all duties and responsibilities required for the administration by the board of the federal construction grant program.

(b) Each applicant for a federal construction grant, under a grant program administered by the board, shall pay to the board a reasonable grant processing fee as prescribed by the board. The grant processing fee charged by the board shall be cost-eligible under the grant program and shall not exceed one-half of one percent of the total eligible project cost, including the planning, design, and construction phases, for any one project. The board shall promulgate regulations establishing schedules for timely payment of grant processing fees. For grants awarded in steps under a federal program, the time schedule for payment of grant processing fees shall provide for payment reasonably apportioned among each step grant awarded. The grant processing fee for each step grant or for any other grant not awarded in steps shall be due and payable immediately following the award of such grant. No grant processing fee shall be levied for any grant awarded prior to the effective date of this Act; but the grant processing fee established in this Subsection (b) shall be levied on grants awarded on or after the effective date of this Act where the board has processed the grant pursuant to an agreement with the United States Environmental Protection Agency, or its successor agency, or any other federal agency that administers programs providing federal grants to local governments for the construction of treatment works.

(c) All grant processing fees collected by the board shall be deposited in a special fund of the state treasury for use by the board in processing and administering the grant programs, and shall not be deposited in the general revenue fund of the state.

[Acts 1977, 65th Leg., p. 253, ch. 120, § 1, eff. Aug. 29, 1977.]

¹ Enacted as § 21.101 by Acts 1977, 65th Leg., p. 253, ch. 120, § 1, and editorially reclassified.

² See, now, § 17.222.

[Sections 26.049 to 26.080 reserved for expansion]

SUBCHAPTER C. REGIONAL AND AREA-WIDE SYSTEMS

§ 26.081. Regional or Area-Wide Systems; General Policy

(a) The legislature finds and declares that it is necessary to the health, safety, and welfare of the people of this state to implement the state policy to encourage and promote the development and use of regional and area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state.

(b) Within any standard metropolitan statistical area in the state, the department is authorized to implement this policy in the manner and in accordance with the procedure provided in Sections 26.081 through 26.086 of this code.

(c) In those portions of the state which are not within a standard metropolitan statistical area, the department shall observe this state policy by encouraging interested and affected persons to cooperate in developing and using regional and area-wide systems. The department may not use the procedure specified in Sections 26.081 through 26.086 of this code in these areas to implement this policy. However, this does not affect or diminish any authority which the department may otherwise have and exercise under other provisions of this chapter.

(d) The term "standard metropolitan statistical area," as used in this section, means an area consisting of a county or one or more contiguous counties which is officially designated as such by the United States Office of Management and Budget or its successor in this function.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.082. Hearing to Define Area of Regional or Area-Wide Systems

(a) Whenever it appears to the board that because of the existing or reasonably foreseeable residential, commercial, industrial, recreational, or other economic development in an area a regional or area-wide waste collection, treatment, or disposal system or systems are necessary to prevent pollution or maintain and enhance the quality of the water in the state, the board may hold a public hearing in or near the area to determine whether the policy stated in Section 26.081 of this code should be implemented in that area.

(b) Notice of the hearing shall be given to the local governments which in the judgment of the board may be affected.

(c) If after the hearing the board finds that a regional or area-wide system or systems are necessary or desirable to prevent pollution or maintain and enhance the quality of the water in the state, the board may enter an order defining the area in which such a system or systems are necessary or desirable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.083. Hearing to Designate Systems to Serve the Area Defined; Order; Election; Etc.

(a) At the hearing held under Section 26.082 of this code or at a subsequent hearing held in or near an area defined under Section 26.082 of this code, the board may consider whether to designate the person to provide a regional or area-wide system or

systems to serve all or part of the waste collection, treatment, or disposal needs of the area defined.

(b) Notice of the hearing shall be given to the local governments and to owners and operators of any waste collection, treatment, and disposal systems who in the judgment of the board may be affected.

(c) If after the hearing the board finds that there is an existing or proposed system or systems then capable or which in the reasonably foreseeable future will be capable of serving the waste collection, treatment, or disposal needs of all or part of the area defined and that the owners or operators of the system or systems are agreeable to providing the services, the board may enter an order designating the person to provide the waste collection, treatment, or disposal system or systems to serve all or part of the area defined.

(d) After the board enters an order under Subsection (c) of this section and if the board receives a timely and sufficient request for an election as provided in Section 21.206, the board shall designate a presiding judge for an election, to determine whether the proposed regional or area-wide system or systems operated by the designated regional entity should be created.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

The text of this section incorporates the amendment to former § 21.203 by Acts 1977, 65th Leg., p. 255, ch. 121, § 1.

§ 26.084. Actions Available to Commission After Designations of Systems

(a) After the board has entered an order as authorized in Section 26.083 of this code, the commission may, after public hearing and after giving notice of the hearing to the persons who in the judgment of the commission may be affected, take any one or more of the following actions:

(1) enter an order requiring any person discharging or proposing to discharge waste into or adjacent to the water in the state in an area defined in an order entered under Section 26.082 of this code to use a regional or area-wide system designated under Section 26.083 of this code for the disposal of his waste;

(2) refuse to grant any permits for the discharge of waste or to approve any plans for the construction or material alteration of any sewer system, treatment facility, or disposal system in an area defined in an order entered under Section 26.082 of this code unless the permits or plans comply and are consistent with any orders entered under Sections 26.081 through 26.086 of this code; or

(3) cancel or suspend any permit, or amend any permit in any particular, which authorizes the discharge of waste in an area defined in an order entered under Section 26.082 of this code.

(b) Before exercising the authority granted in this section, the commission shall find affirmatively:

(1) that there is an existing or proposed regional or area-wide system designated under Section 26.083 of this code which is capable or which in the reasonably foreseeable future will be capable of serving the waste collection, treatment, or disposal needs of the person or persons who are the subject of an action taken by the commission under this section;

(2) that the owner or operator of the designated regional or area-wide system is agreeable to providing the service;

(3) that it is feasible for the service to be provided on the basis of waste collection, treatment, and disposal technology, engineering, financial, and related considerations existing at the time, exclusive of any loss of revenue from any existing or proposed waste collection, treatment, or disposal systems in which the person or persons who are the subject of an action taken under this section have an interest;

(4) that inclusion of the person or persons who are the subject of an action taken by the commission under this section will not suffer undue financial hardship as a result of inclusion in a regional or area-wide system; and

(5) that a majority of the votes cast in any election held under Section 21.206¹ of this code favor the creation of the regional or area-wide system or systems operated by the designated regional entity.

(c) An action taken by the commission under Section 26.085 of this code, excluding any person or persons from a regional or area-wide system because the person or persons will suffer undue financial hardship as a result of inclusion in the regional or area-wide system, shall be subject to a review at a later time determined by the commission in accordance with the criteria set out in this section, not to exceed three years from the date of exclusion.

(d) If a person or persons excluded from a regional or area-wide system fail to operate the excluded facilities in a manner that will comply with its permits, the permits shall be subject to cancellation after review by the commission, and the facilities may become a part of the regional or area-wide system.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ See [§ 26.087].

The text of this section incorporates the amendment to former § 21.204 by Acts 1977, 65th Leg., p. 255, ch. 121, § 2.

§ 26.085. Inclusion at a Later Time

Any person or persons who are the subject of an action taken by the commission under Section 26.084 of this code and who are excluded from a regional or area-wide system because the person or persons will suffer undue financial hardship as a result of inclusion in the regional or area-wide sys-

tem may be added to the system at a later time under the provisions of Section 26.084 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.086. Rates for Services by Designated Systems

(a) On motion of any interested party and after a public hearing, the commission may set reasonable rates for the furnishing of waste collection, treatment, or disposal services to any person by a regional or area-wide system designated under Section 26.083 of this code.

(b) Notice of the hearing shall be given to the owner or operator of the designated regional or area-wide system, the person requesting the hearing, and any other person who in the judgment of the commission may be affected by the action taken by the commission as a result of the hearing.

(c) After the hearing, the commission shall enter an order setting forth its findings and the rates which may be charged for the services by the owner or operator of the designated regional or area-wide system.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[§ 26.087].¹ Election for Approval of Regional or Area-Wide System or Systems

(a) After the board, under Sections 21.202² and 21.203³ of this code, enters an order: defining an area for a regional or area-wide system or systems; designating a regional entity to operate the regional or area-wide system or systems; and appointing a presiding judge for the election, an election shall be held within the boundaries of the proposed regional or area-wide system or systems to be operated by the designated regional entity upon the filing of a timely and sufficient request for an election except as provided in Subsection (i) of this section.

(b) Any person located within the boundaries of the proposed regional or area-wide system or systems requesting an election for the approval of the proposed regional or area-wide system or systems to be operated by the designated regional entity shall file a written request with the board within 30 days of the date the board enters an order under Section 21.203. The request shall include a petition signed by 50 persons holding title to the land within the proposed regional or area-wide system or systems, as indicated by the county tax rolls.

(c) Notice of the election shall state the day and place or places for holding the election, and the proposition to be voted on. The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which the regional or area-wide system or systems is to be located. The first publication of the notice shall be at least 14 days before the day set for the election. Notice of the election shall be given to the local governments and to owners

and operators of any waste collection, treatment, and disposal systems who in the judgment of the board may be affected.

(d) Absentee balloting in the election shall begin 10 days before the election and shall end as provided in the Texas Election Code. The ballots for the election shall be printed to provide for voting for or against the regional or area-wide system to be operated by the designated regional entity.

(e) Immediately after the election, the presiding judge shall make returns of the result to the executive director of the board. The executive director shall canvass the returns and report to the board his findings of the results at the earliest possible time.

(f) If a majority of the votes cast in the election favor the creation of the regional or area-wide system or systems operated by the designated regional entity, then the board shall declare the regional system is created and enter the results in its minutes. If a majority of the votes cast in the election are against the creation of the regional or area-wide system or systems operated by the designated regional entity, then the board shall declare that the regional system was defeated and enter the result in its minutes.

(g) The order canvassing the results of the confirmation election shall contain a description of the regional system's boundaries and shall be filed in the deed records of the county or counties in which the regional system is located.

(h) The legislature, through the General Appropriations Act, may provide funds for the conduct of elections required under this section. If no funds are appropriated for this purpose, the costs of conducting the election shall be assessed by the board.

(i) This subsection applies to regional or area-wide system or systems and regional entities which have been designated prior to the effective date of this Act. An election to approve creation of a regional or area-wide system or systems and the designation of a regional entity to operate those systems as provided in this section shall not be required for those regional systems or entities to which this subsection applies.

[Acts 1977, 65th Leg., p. 256, ch. 121, § 3, eff. Aug. 29, 1977.]

¹ Enacted as § 21.206 by Acts 1977, 65th Leg., p. 256, ch. 121, § 3, and editorially reclassified.

² See, now, § 26.082.

³ See, now, § 26.083.

[Sections 26.088 to 26.120 reserved for expansion]

SUBCHAPTER D. PROHIBITION AGAINST POLLUTION; ENFORCEMENT

§ 26.121. Unauthorized Discharges Prohibited

Text of section effective until delegation of NPDES permit authority

(a) Except as authorized by a rule, permit, or order issued by the department, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Railroad Commission of Texas, in which case this subdivision does not apply.

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the water that might be affected.

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any rule, permit, or order of the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.121, post

§ 26.121. Unauthorized Discharges Prohibited

Text of section effective upon delegation of NPDES permit authority

(a) Except as authorized by a rule, permit, or order issued by the department, no person may:

(1) discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;

(2) discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state; or

(3) commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, or the Railroad Commission of Texas, in which case this subdivision does not apply.

(b) In the enforcement of Subdivisions (2) and (3) of Subsection (a) of this section, consideration shall be given to the state of existing technology, economic feasibility, and the water quality needs of the water that might be affected.

(c) No person may cause, suffer, allow, or permit the discharge of any waste or the performance of any activity in violation of this chapter or of any rule, permit, or order of the department.

(d) Except as authorized by a rule, permit, or order issued by the department, no person may discharge any pollutant, sewage, municipal waste, recreational waste, agricultural waste, or industrial waste from any point source into any water in the state.

(e) No person may cause, suffer, allow, or permit the discharge from a point source of any waste or of any pollutant, or the performance or failure of any activity other than a discharge, in violation of this chapter or of any rule, regulation, permit, or other order of the board.

[Amended by Acts 1977, 65th Leg., p. 1643, ch. 644, § 2; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective until delegation of NPDES permit authority, see § 26.121, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.122. Civil Penalty

Text of section effective until delegation of NPDES permit authority

A person who violates any provision of this chapter or any rule, permit, or order of the department is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation to be recovered as provided in this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.122, post

§ 26.122. Civil Penalty

Text of section effective upon delegation of NPDES permit authority

(a) A person who violates any provision of this chapter, other than Subsection (d) or Subsection (e) of Section 21.251,¹ or who violates any rule, permit, or order of the department is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation to be recovered as provided in this subchapter.

(b) A person who violates Subsection (d) or Subsection (e) of Section 21.251 of this chapter is subject to a civil penalty of not more than \$10,000 for each act of violation and for each day of violation, to be recovered as provided in this subchapter; provided, however, that in suits instituted pursuant to this subsection, the civil penalty, if any, assessed against the person who committed or who is com-

mitting the violation shall be no more than \$1,000 for each act of violation and for each day of violation where the violation is of a limitation or condition included in a permit issued by the department prior to delegation by the Administrator of the United States Environmental Protection Agency of NPDES permit authority under Section 402(b) of the Federal Water Pollution Control Act,² or of any limitation or condition included in an identified state supplement to an NPDES permit issued after NPDES permit delegation by the Administrator of the United States Environmental Protection Agency.

[Amended by Acts 1977, 65th Leg., p. 1643, ch. 644, § 3; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ See, now, § 26.121.

² 33 U.S.C.A. § 1342(b).

For text of section effective until delegation of NPDES permit authority, see § 26.122, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.123. Enforcement by Department

Text of section effective until delegation of NPDES permit authority

(a) Whenever it appears that a person has violated or is violating or is threatening to violate any provision of this chapter or any rule, permit, or order of the department, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, permit, or order of the department, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty as authorized in Subsection (a) of this section.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.123, post

§ 26.123. Enforcement by Department

Text of section effective upon delegation of NPDES permit authority

(a) Whenever it appears that a person has violated or is violating or is threatening to violate any

provision of this chapter, other than Subsection (d) or Subsection (e) of Section 21.251,¹ or has violated or is violating, or is threatening to violate, any rule, permit, or order of the department, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty.

(b) Whenever it appears that a person has violated or is violating, or is threatening to violate, Subchapter (d) or Subchapter (e) of Section 21.251 of this chapter, then the executive director may have a civil suit instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not more than \$10,000 for each act of violation and for each day of violation, or for both injunctive relief and civil penalty; provided, however, that in suits instituted pursuant to this subsection, the civil penalty, if any, assessed against the person who committed or who is committing the violation shall be no more than \$1,000 for each act of violation and for each day of violation where the violation is of a limitation or condition included in a permit issued by the board prior to delegation by the Administrator of the United States Environmental Protection Agency of NPDES permit authority under Section 402(b) of the Federal Water Pollution Control Act,² or of any limitation or condition included in an identified state supplement to an NPDES permit issued after NPDES permit delegation by the Administrator of the United States Environmental Protection Agency.

(c) On application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this chapter or any rule, permit, or order of the department, the district court shall grant the injunctive relief the facts may warrant.

(d) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both injunctive relief and penalty as authorized in Subsection (a) or (b) of this section.

[Amended by Acts 1977, 65th Leg., p. 1644, ch. 644, § 4; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ See, now, § 26.121.

² 33 U.S.C.A. § 1342(b).

For text of section effective until delegation of NPDES permit authority, see § 26.123, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.124. Enforcement by Others

(a) Whenever it appears that a violation or threat of violation of any provision of Section 26.121 of this code or any rule, permit, or order of the department has occurred or is occurring within the jurisdiction of a local government, exclusive of its extra-territorial jurisdiction, the local government, in the same manner as the department, may have a suit instituted in a district court through its own attorney for the injunctive relief or civil penalties or both, as authorized in Subsection (a) of Section 26.123 of this code, against the person who committed or is committing or threatening to commit the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this section, the department is a necessary and indispensable party.

(b) Whenever it appears that a violation or a threat of violation of any provision of Section 26.121 of this code or any rule, permit, or order of the department has occurred or is occurring that affects aquatic life or wildlife, the Parks and Wildlife Department, in the same manner as the department, may have a suit instituted in a district court for injunctive relief or civil penalties or both, as authorized in Section 26.123(a) of this code, against the person who committed or is committing or is threatening to commit the violation. The suit shall be brought in the name of the State of Texas through the county attorney or the district attorney, as appropriate, of the county where the defendant resides or in the county where the violation or threat of violation occurs.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.125. Venue and Procedure

(a) A suit for injunctive relief or recovery of a civil penalty or for both injunctive relief and penalty may be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

(b) In any suit brought to enjoin a violation or threat of violation of this chapter or any rule, permit, or order of the department, the court may grant the department, the Parks and Wildlife Department, or the local government, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders, after notice and hearing temporary injunctions, and permanent injunctions.

(c) A suit brought under this chapter shall be given precedence over all other cases of a different nature on the docket of the appellate court.

(d) Either party may appeal from a final judgment of the court as in other civil cases.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(42), eff. Aug. 31, 1981.]

§ 26.126. Disposition of Civil Penalties

(a) All civil penalties recovered in suits instituted by the State of Texas under this chapter through the department or the Parks and Wildlife Department shall be paid to the General Revenue Fund of the State of Texas.

(b) All civil penalties recovered in suits instituted by a local government or governments under this chapter shall be equally divided between the State of Texas and the local government or governments first instituting the suit, with 50 percent of the recovery to be paid to the General Revenue Fund of the State of Texas and the other 50 percent paid equally to the local government or governments first instituting the suit.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.127. Department as Principal Authority

The department is the principal authority in the state on matters relating to the quality of the water in the state. The executive director has the responsibility for establishing a water quality sampling and monitoring program for the state. All other state agencies engaged in water quality or water pollution control activities shall coordinate those activities with the department.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.128. Groundwater Quality

The executive director shall have investigated all matters concerning the quality of groundwater in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.129. Duty of Parks and Wildlife Department

The Parks and Wildlife Department and its authorized employees shall enforce the provisions of this chapter to the extent that any violation affects aquatic life and wildlife as provided in Section 26.124(b) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.130. Duty of Department of Health Resources¹

The Texas Department of Health Resources shall continue to apply the authority vested in it by Chapter 178, Acts of the 49th Legislature, 1945, as amended (Article 4477-1, Vernon's Texas Civil Statutes), in the abatement of nuisances resulting from pollution not otherwise covered by this chapter. The Texas Department of Health Resources shall

investigate and make recommendations to the department concerning the health aspects of matters related to the quality of the water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Name changed to Department of Health; see Civil Statutes, art. 4418g.

§ 26.131. Duties of Railroad Commission

The Railroad Commission of Texas is solely responsible for the control and disposition of waste and the abatement and prevention of pollution of surface and subsurface water resulting from activities associated with the exploration, development, and production of oil or gas or geothermal resources, and, except to the extent the activities are regulated by the Texas Department of Health under Chapter 72, Acts of the 57th Legislature, Regular Session, 1961, as amended (Article 4590f, Vernon's Texas Civil Statutes), from activities associated with uranium exploration consisting of the disturbance of the surface or subsurface for the purpose of or related to determining the location, quantity, or quality of uranium ore. The Railroad Commission of Texas may issue permits for the discharge of waste resulting from these activities, and discharge of waste into water in this state resulting from these activities shall meet the water quality standards established by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 395, ch. 185, § 3, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 413, ch. 171, § 2, eff. May 20, 1981.]

§ 26.132. Act of God, War, Etc.

Any pollution, or any discharge of waste without a permit or in violation of a permit, caused by an act of God, war, strike, riot, or other catastrophe is not a violation of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.133. Effect on Private Remedies

Nothing in this chapter affects the right of any private corporation or individual to pursue any available common-law remedy to abate a condition of pollution or other nuisance or to recover damages.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.134. Repealed by Acts 1977, 65th Leg., p. 1647, ch. 644, § 11

Acts 1977, 65th Leg., p. 1647, ch. 644, § 11, repealed former § 21.264, which was identical to this section, as revised by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1.

See, now, § 5.053.

§ 26.135. Effect on Other Laws

(a) Nothing in this chapter affects the powers and duties of the department and the Railroad Commission

of Texas with respect to injection wells as provided in Chapter 27 of this code.

(b) The department and the Water Well Drillers Board shall continue to exercise the authority granted to them in The Water Well Drillers Act, as amended (Article 7621e, Vernon's Texas Civil Statutes).

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.136 to 26.170 reserved for expansion]

SUBCHAPTER E. AUTHORITY OF LOCAL GOVERNMENTS

§ 26.171. Inspection of Public Water

A local government may inspect the public water in its area and determine whether or not:

- (1) the quality of the water meets the state water quality standards adopted by the board;
- (2) persons discharging effluent into the public water located in the areas of which the local government has jurisdiction have obtained permits for discharge of the effluent; and
- (3) persons who have permits are making discharges in compliance with the requirements of the permits.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.172. Recommendations to Board

A local government may make written recommendations to the board as to what in its judgment the water quality standards should be for any public water within its territorial jurisdiction.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.173. Power to Enter Property

(a) A local government has the same power as the department has under Section 26.014 of this code to enter public and private property within its territorial jurisdiction to make inspections and investigations of conditions relating to water quality. The local government in exercising this power is subject to the same provisions and restrictions as the department.

(b) When requested by the executive director, the result of any inspection or investigation made by the local government shall be transmitted to the department for its consideration.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.174. Enforcement Action

A local government may bring an enforcement action under this chapter in the manner provided in

Subchapter D of this chapter¹ for local governments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Section 26.121 et seq.

§ 26.175. Cooperative Agreements

(a) A local government may execute cooperative agreements with the department or other local governments:

(1) to provide for the performance of water quality management, inspection, and enforcement functions and to provide technical aid and educational services to any party to the agreement; and

(2) for the transfer of money or property from any party to the agreement to another party to the agreement for the purpose of water quality management, inspection, enforcement, technical aid and education, and the construction, ownership, purchase, maintenance, and operation of disposal systems.

(b) When in the opinion of the executive director it would facilitate and enhance the performance by a local government of its water quality management, inspection, and enforcement functions pursuant to a cooperative agreement between the local government and the department as authorized in Subsection (a) of this section, the executive director may assign and delegate to the local government during the period of the agreement such of the pertinent powers and functions vested in the department under this chapter as in the judgment of the executive director may be necessary or helpful to the local government in performing those management, inspection, and enforcement functions.

(c) At any time and from time to time prior to the termination of the cooperative agreement, the executive director may modify or rescind any such assignment or delegation.

(d) The executive director shall notify immediately a local government to whom it assigns or delegates any powers and functions pursuant to Subsections (b) and (c) of this section or as to when it modifies or rescinds any such assignment or delegation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.176. Disposal System Rules

(a) Every local government which owns or operates a disposal system is empowered to and shall, except as authorized in Subsection (c) of this section, enact and enforce rules, ordinances, orders, or resolutions, referred to in this section as rules, to control and regulate the type, character, and quality of waste which may be discharged to the disposal system and, where necessary, to require pretreatment of waste to be discharged to the system, so as to protect the health and safety of personnel maintaining and operating the disposal system and to

prevent unreasonable adverse effects on the disposal system.

(b) The local government in its rules may establish the charges and assessments which may be made to and collected from all persons who discharge waste to the disposal system or who have conduits or other facilities for discharging waste connected to the disposal system, referred to in this subsection as "users." The charges and assessments shall be equitable as between all users and shall correspond as near as can be practically determined to the cost of making the waste disposal services available to all users and of treating the waste of each user or class of users. The charges and assessments may include user charges, connection fees, or any other methods of obtaining revenue from the disposal system available to the local government. In establishing the charges and assessments, the local government shall take into account:

(1) the volume, type, character, and quality of the waste of each user or class of users;

(2) the techniques of treatment required;

(3) any capital costs and debt retirement expenses of the disposal system required to be paid for from the charges and assessments;

(4) the costs of operating and maintaining the system to comply with this chapter and the permits, rules, and orders of the department; and

(5) any other costs directly attributable to providing the waste disposal service under standard, accepted cost-accounting practices.

(c) A local government may apply to the commission for an exception from the requirements of Subsections (a) and (b) of this section or for a modification of those requirements. The application shall contain the exception or modifications desired, the reasons the exception or modifications are needed, and the grounds authorized in this subsection on which the commission should grant the application. A public hearing on the application shall be held in or near the territorial area of the local government, and notice of the hearing shall be given to the local government. If after the hearing the commission in its judgment determines that the volume, type, character, and quality of the waste of the users of the system or of a particular user or class of users of the system do not warrant the enactment and enforcement of rules containing the requirements prescribed in Subsections (a) and (b) of this section or that the enactment and enforcement of the rules would be impractical or unreasonably burdensome on the local government in relation to the public benefit to be derived, then the commission in its discretion may enter an order granting an exception to those requirements or modifying those requirements in any particular in response to circumstances shown to exist.

(d) At any time and from time to time as circumstances may require, the commission may amend or revoke any order it enters pursuant to Subsection (c) of this section. Before the commission amends

or revokes such an order, a public hearing shall be held in or near the territorial area of the local government in question, and notice of the hearing shall be given to the local government. If after the hearing the commission in its judgment determines that the circumstances on which it based the order have changed significantly or no longer exist, the commission may revoke the order or amend it in any particular in response to the circumstances then shown to exist.

(e) In the event of any conflict between the provisions of this section and any other laws or parts of laws, the provisions of this section shall control.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.177. Water Pollution Control Duties of Cities

(a) Every city in this state having a population of 5,000 or more inhabitants shall, and any city of this state may, establish a water pollution control and abatement program for the city. The city shall employ or retain an adequate number of personnel on either a part-time or full-time basis as the needs and circumstances of the city may require, who by virtue of their training or experience are qualified to perform the water pollution control and abatement functions required to enable the city to carry out its duties and responsibilities under this section.

(b) The water pollution control and abatement program of a city shall encompass the entire city and may include areas within its extraterritorial jurisdiction which in the judgment of the city should be included to enable the city to achieve the objectives of the city for the area within its territorial jurisdiction. The city shall include in the program the services and functions which, in the judgment of the city or as may be reasonably required by the commission, will provide effective water pollution control and abatement for the city, including the following services and functions:

(1) the development and maintenance of an inventory of all significant waste discharges into or adjacent to the water within the city and, where the city so elects, within the extraterritorial jurisdiction of the city, without regard to whether or not the discharges are authorized by the department;

(2) the regular monitoring of all significant waste discharges included in the inventory prepared pursuant to Subdivision (1) of this subsection;

(3) the collecting of samples and the conducting of periodic inspections and tests of the waste discharges being monitored to determine whether the discharges are being conducted in compliance with this chapter and any applicable permits, orders, or rules of the department, and whether they should be covered by a permit from the commission;

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(4) in cooperation with the department, a procedure for obtaining compliance by the waste dischargers being monitored, including where necessary the use of legal enforcement proceedings; and

(5) the development and execution of reasonable and realistic plans for controlling and abating pollution or potential pollution resulting from generalized discharges of waste which are not traceable to a specific source, such as storm sewer discharges and urban runoff from rainwater.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.178 to 26.210 reserved for expansion]

SUBCHAPTER F. CRIMINAL PROSECUTION

§ 26.211. Definitions

As used in this subchapter:

(1) "Water" includes both surface and subsurface water, and "water in the state" means any water within the jurisdiction of the state.

(2) "Water pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, any of the water in the state that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or public enjoyment of the water for any lawful or reasonable purpose.

(3) "Person" means an individual or private corporation.

(4) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste defined in this section.

(5) "Sewage" means waterborne human or animal wastes from residences, buildings, industrial establishments, cities, towns, or other places together with groundwater infiltration and surface water with which it is commingled.

(6) "Municipal waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any discharge arising within or emanating from, or subject to the control of, any municipal corporation, city, town, village, or municipality.

(7) "Recreational waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that arise within or emanate from any public or private park, beach, or recreational area.

(8) "Agricultural waste" means waterborne liquid, gaseous, solid, or other waste substances that arise from any type of public or private agricultural activity, including poisons and insecticides used in agricultural activities.

(9) "Industrial waste" means waterborne liquid, gaseous, solid, or other waste substances or a combination of these that result from any process of industry, manufacturing, trade, or business.

(10) "Other waste" means garbage, refuse, decayed wood, sawdust, shavings, bark, sand, lime, cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, salt water, or any other substance, other than sewage, industrial waste, municipal waste, recreational waste, or agricultural waste that may cause the quality of water in the state to be impaired.

(11) "To discharge" includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.212. Criminal Offense

Text of section effective until delegation of NPDES permit authority

(a) No person may discharge or cause or permit the discharge of any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or order issued by the department or the Railroad Commission of Texas.

(b) No person to whom the commission has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge or cause or permit the discharge of the waste in violation of the requirements of the permit or order.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.212, post

§ 26.212. Criminal Offense

Text of section effective upon delegation of NPDES permit authority

(a) No person may discharge or cause or permit the discharge of any waste into or adjacent to any water in the state which causes or which will cause water pollution unless the waste is discharged in compliance with a permit or order issued by the department or the Railroad Commission of Texas.

(b) No person to whom the commission has issued a permit or other order authorizing the discharge of any waste at a particular location may discharge or cause or permit the discharge of the waste in violation of the requirements of the permit or order.

(c) No person may wilfully or negligently cause, suffer, allow, or permit the discharge from a point source, of any waste or of any pollutant, or the performance or failure of any activity other than a discharge, in violation of this chapter, or of any rule, regulation, permit, or other order of the department.

(d) No person may knowingly make any false statement, representation, or certification in any application, notice, record, report, plan, or other

document filed or required to be maintained under this chapter, or under any rule, regulation, permit, or other order of the department.

(e) No person may falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under this chapter, or under any rule, regulation, permit, or other order of the department.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 5; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 9, eff. June 10, 1981.]

For text of section effective until delegation of NPDES permit authority, see § 26.212, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.213. Criminal Penalty

Text of section effective until delegation of NPDES permit authority

A person who violates the provisions of Section 26.212 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.213, post

§ 26.213. Criminal Penalty

Text of section effective upon delegation of NPDES permit authority

(a) A person who violates the provisions of Subsection (a) or Subsection (b) of Section 26.212 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense.

(b) A person who violates the provisions of Subsection (c), (d), or (e) of Section 26.212 is guilty of a misdemeanor and on conviction is punishable by a fine of not more than \$25,000; provided, however, that violations of limitations or conditions included in permits issued by the commission prior to delegation by the Administrator of the United States Environmental Protection Agency of NPDES permit authority under Section 402(b) of the Federal Water Pollution Control Act,¹ or violations of limitations or conditions included in an identified state supplement to an NPDES permit issued after NPDES permit delegation by the Administrator, shall be punishable by a fine of not less than \$10 nor more than \$1,000.

Each day that a violation occurs constitutes a separate offense.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 6; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ 33 U.S.C.A. § 1342(b).

For text of section effective until delegation of NPDES permit authority, see § 26.213, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.214. Criminal Penalty for Violation of Private Sewage Facility Order

(a) A person who violates any rule entered by the board under Section 26.031 of this code or order adopted by a county under Section 26.032 of this code is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(b) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(c) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 979, ch. 367, § 10, eff. June 10, 1981.]

§ 26.215. Peace Officers

For purposes of this subchapter, the authorized agents and employees of the Parks and Wildlife Department are constituted peace officers. These agents and employees are empowered to enforce the provisions of this subchapter the same as any other peace officer, and for such purpose shall have the powers and duties of peace officers as set forth in the Code of Criminal Procedure, 1965, as amended.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.216. Act of God, War, Etc.

Any waste discharge otherwise punishable under this subchapter which is caused by an act of God, war, riot, or other catastrophe is not a violation of this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.217. Venue

Text of section effective until delegation of NPDES permit authority

Venue for prosecution of any alleged violation is in the county court, the county criminal court, or the county court at law of the county in which the violation is alleged to have occurred.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

For text of section effective upon delegation of NPDES permit authority, see § 26.217, post

§ 26.217. Venue

Text of section effective upon delegation of NPDES permit authority

Venue for prosecution of any alleged violation of Section 21.552¹ is in the county court, the county criminal court, or the county court-at-law of the county in which the violation is alleged to have occurred.

[Amended by Acts 1977, 65th Leg., p. 1645, ch. 644, § 6; Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ See, now, § 26.212.

For text of section effective until delegation of NPDES permit authority, see § 26.217, ante

For effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 26.218. Allegations

In alleging the name of a defendant private corporation, it is sufficient to state in the complaint, indictment, or information the corporate name or to state any name or designation by which the corporation is known or may be identified. It is not necessary to allege that the defendant was lawfully incorporated.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.219. Summons and Arrest

(a) After a complaint is filed or an indictment or information presented against a private corporation under the provisions of this subchapter, the court or clerk shall issue a summons to the corporation. The summons shall be in the same form as a *causis* except that:

(1) it shall summon the corporation to appear before the court named at the place stated in the summons;

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the Secretary of State, in which instance the summons shall provide that the corporation appear before the court named at or before 10 a. m. of the Monday next after the expiration of 30 days after the Secretary of State is served with summons.

(b) No individual may be arrested upon a complaint, indictment, or information against a private corporation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.220. Service of Summons

(a) A peace officer shall serve a summons on a private corporation by personally delivering a copy of it to the corporation's registered agent for service. If a registered agent has not been designated or cannot with reasonable diligence be found at the registered office, the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice-president of the corporation.

(b) If the peace officer certifies on the return that he diligently but unsuccessfully attempted to effect service under Subsection (a) of this section or if the corporation is a foreign corporation that has no certificate of authority, he shall serve the summons on the Secretary of State by personally delivering a copy of it to him or to the assistant secretary of state or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the Secretary of State shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered office or, if it is a foreign corporation, at its principal office in the state or country under whose law it was incorporated.

(c) The Secretary of State shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Subsection (b) of this section together with the return receipt.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.221. Arraignment and Pleadings

In all criminal actions instituted against a private corporation under the provisions of this subchapter:

- (1) appearance is for the purpose of arraignment; and
- (2) the corporation has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.222. Appearance

(a) A defendant private corporation appears through counsel or its representative.

(b) If a private corporation does not appear in response to summons or appears but fails or refuses to plead, it is considered to be present in person for all purposes, and the court shall enter a plea of not guilty in its behalf and may proceed with trial, judgment, and sentencing.

(c) After appearing and entering a plea in response to summons, if a private corporation is absent without good cause at any time during later proceedings, it is considered to be present in person for all purposes, and the court may proceed with trial, judgment, or sentencing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.223. Fine Treated as Judgment in Civil Action

If a private corporation is found guilty of a violation of this subchapter and a fine imposed, the fine shall be entered and docketed by the clerk of the court as a judgment against the corporation, and the fine shall be of the same force and effect and be enforced against the corporation in the same manner as if the judgment were recovered in a civil action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.224. Cumulative Provisions

Nothing in this subchapter repeals or amends any of the provisions of Subchapters A through E of this chapter, Chapter 27 of this code, or Article 6029a, Revised Civil Statutes, 1925, as added, but this subchapter is cumulative of those acts and they remain in full force and effect.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.225. Effect on Certain Other Laws

To the extent that any general or special law makes an act or omission a criminal offense and which act or omission also constitutes a criminal offense under this subchapter, the other general or special law is repealed, but only to that extent.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 26.226 to 26.260 reserved for expansion]

SUBCHAPTER G. COASTAL OIL AND HAZARDOUS SPILL PREVENTION AND CONTROL

§ 26.261. Short Title

This subchapter may be cited as the Texas Hazardous Substances Spill Prevention and Control Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4204, ch. 669, § 1, eff. Sept. 1, 1983.]

§ 26.262. Policy

It is the policy of this state to prevent the spill or discharge of hazardous substances into the surface waters of the state and to cause the removal of such spills and discharges without undue delay.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4204, ch. 669, § 1, eff. Sept. 1, 1983.]

§ 26.263. Definitions

As used in this subchapter:

- (1) "Discharge or spill" means an act or omission by which hazardous substances in harmful quantities are spilled, leaked, pumped, poured, emitted, entered, or dumped onto or into surface waters of this state or by which those substances

are deposited where, unless controlled or removed, they may drain, seep, run, or otherwise enter surface water in this state. The term "discharge" or "spill" shall not include any discharge which is authorized by a permit issued pursuant to federal law or any other law of this state or, with the exception of transportation spills and spills in coastal waters, regulated by the Railroad Commission of Texas.

(2) "Fund" means the Texas Spill Response Fund.

(3) "Harmful quantity" means that quantity of hazardous substance the discharge or spill of which is determined to be harmful to the environment or public health or welfare or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare by the administrator of the Environmental Protection Agency pursuant to federal law and by the executive director.

(4) "Hazardous substance" means any substance designated as such by the administrator of the Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act,¹ regulated pursuant to Section 311 of the Federal Water Pollution Control Act,² or designated by the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4204, ch. 669, § 1, eff. Sept. 1, 1983.]

¹ 42 U.S.C.A. § 9601 et seq.

² 33 U.S.C.A. § 1251 et seq.

§ 26.264. Administrative Provisions

(a) The department shall be the state's lead agency in spill response, shall conduct spill response for the state, and shall otherwise administer this subchapter. The department shall cooperate with other agencies, departments, and subdivisions of this state and of the United States in implementing this subchapter. In the event of a discharge or spill and after reasonable effort to obtain entry rights from each property owner involved, if any, the executive director may enter affected property to carry out necessary spill response actions.

(b) The board may issue rules necessary and convenient to carry out the purposes of this subchapter.

(c) The executive director shall enforce the provisions of this subchapter and any rules given effect pursuant to Subsection (b) of this section.

(d) The executive director with the approval of the board may contract with any public agency or private persons or other entity for the purpose of implementing this subchapter.

(e) The executive director shall solicit the assistance of and cooperate with local governments, the federal government, other agencies and departments of this state, and private persons and other entities to develop regional contingency plans for

prevention and control of hazardous substance spills and discharges.

(f) The department and the State Department of Highways and Public Transportation, in cooperation with the governor, the United States Coast Guard, and the Environmental Protection Agency, shall develop a contractual agreement whereby personnel, equipment, and materials in possession or under control of the State Department of Highways and Public Transportation may be diverted and utilized for spill and discharge cleanup as provided for in this subchapter. Under the agreement, the following conditions shall be met:

(1) the department and the State Department of Highways and Public Transportation shall develop and maintain written agreements and contracts on how such utilization will be effected, and designating agents for this purpose;

(2) personnel, equipment, and materials may be diverted only with the approval of the department and the State Department of Highways and Public Transportation, acting through their designated agents, or by action of the governor;

(3) all expenses and costs of acquisition of such equipment and materials or resulting from such cleanup activities shall be paid from the fund, subject to reimbursement as provided in this subchapter; and

(4) subsequent to such activities, a full report of all expenditures and significant actions shall be prepared and submitted to the governor, the Legislative Budget Board, and the state auditor, and shall be reviewed by the board.

(g) The executive director shall develop and revise from time to time written action and contractual plans with the designated on-scene coordinator provided for by federal law.

(h)(1) In developing rules and plans under this subchapter and in engaging in cleanup activities, the board shall recognize the authority of the pre-designated federal on-scene coordinator to oversee, coordinate, and direct all private and public activities related to cleanup of discharges and spills. The executive director shall place the resources of the state at the disposal of the on-scene coordinator, if he is present, or shall engage in cleanup activities when directed to do so by the on-scene coordinator.

(2) Nothing in this subchapter shall prevent the executive director from appointing a state-designated on-scene coordinator and acting independently if no on-scene coordinator is present and no action is being taken by an agency of the federal government.

(3) The department shall seek reimbursement from the designated agencies of the federal government for the reasonable costs incurred in cleanup operations, including but not limited to costs of personnel, equipment, the use of equipment, and supplies and restoration of land and aquatic resources held in trust or owned by the state.

(i) The executive director shall after appropriate investigation prepare a report on the discharge or spill, and this report shall provide the following information:

- (1) a description of the incident, including location, amount, and characteristics of the material discharged or spilled and the prevailing weather conditions;
- (2) the time and duration of discharge or spill and the time and method by which the discharge or spill was reported;
- (3) the action taken, and by whom, to contain and clean up the discharge or spill;
- (4) an assessment of both the short-term and long-term environmental impact of the accidental discharge or spill;
- (5) the estimated cost of cleanup operations and the source of payment of these costs;
- (6) an evaluation of the principal causes of the discharge or spill and an assessment of how similar incidents might be prevented in the future; and
- (7) a description of any legal action being taken to levy penalties or collect damages.

(j) This subchapter is cumulative of all other powers of the department.

(k) In the event that a discharge or spill presents or threatens to present an occurrence of disaster proportions, the governor shall utilize the authority granted him under the Texas Disaster Act of 1975 (Article 6889-7, Vernon's Texas Civil Statutes) to make available and bring to bear all resources of the state to prevent or lessen the impact of such a disaster.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4207, ch. 669, § 2, eff. Sept. 1, 1983.]

§ 26.265. Texas Spill Response Fund

(a) There is hereby created the Texas Spill Response Fund. This fund shall not exceed \$5 million, exclusive of fines and penalties received under this subchapter.

(b) The fund shall consist of money appropriated to it by the legislature and any fines, civil penalties, or other reimbursement to the fund provided for under this subchapter. It is the intent of the legislature that the state attempt to recover money spent from the fund according to the following priority:

- (1) direct reimbursement from the federal government as provided by federal law for costs incurred in cleanup operations;
- (2) in the event that federal reimbursement is not available, the state shall seek to recover clean-up costs from the responsible party. If the responsible party refuses to pay, the state shall initiate legal action to collect the actual costs, provided, however, that such recovery may not exceed \$5 million; and

(3) if federal reimbursement occurs but is insufficient to repay the fund, the state shall take action to collect the remainder from the responsible party as provided in Subdivision (2) of this subsection.

(c) The executive director with the approval of the board may expend money in the fund only for the purpose of obtaining personnel, equipment, and supplies required in the cleanup of discharges and spills, including restoration of land and aquatic resources held in trust or owned by the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4204, ch. 669, § 1, eff. Sept. 1, 1983.]

Section 5 of the 1983 amendatory act provided:

"Any balance remaining in the Texas coastal protection fund is transferred to the Texas spill response fund on the effective date of this Act."

§ 26.266. Removal of Accidental Discharge

(a) Any person discharging or spilling hazardous substances into surface waters shall immediately undertake all feasible actions to abate and remove the discharge or spill subject to applicable federal and state requirements.

(b) In the event that the responsible party is unwilling or in the opinion of the executive director is unable to remove the discharge or spill, or the removal operation of such party is inadequate, the department may undertake the removal of the discharge or spill and may retain agents for these purposes who shall operate under the direction of the executive director.

(c) Any discharge or spill of a hazardous substance, the source of which is unknown, occurring in waters of the state or in waters beyond the jurisdiction of this state and which may reasonably be expected to enter waters of the state may be removed by or under the direction of the executive director. Any expense involved in the removal of an unexplained discharge pursuant to this subsection shall be paid, on the board's approval, from the fund, subject to the authority of the board to seek reimbursement from an agency of the federal government, and from the responsible party if the identity of that party is discovered.

(d) In any activity undertaken pursuant to this section, the department shall act in accordance with the national contingency plan authorized by the Federal Water Pollution Control Act, as amended,¹ and with Section 26.264(h) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4209, ch. 669, § 3, eff. Sept. 1, 1983.]

¹ See 33 U.S.C.A. § 1321(c)(2).

§ 26.267. Exemptions

(a) No person shall be held liable under this subchapter for any accident resulting from an act of God, act of war, third party negligence, or an act of government.

(b) Nothing in this subchapter shall in any way affect or limit the liability of any person to any other person or to the United States, or to this state except as specifically provided in Section 26-265(b)(2) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 26.268. Penalties

(a) This section is cumulative of all penalties and enforcement provisions provided elsewhere to the department.

(b) Any person who violates any provision of this subchapter or of a department rule or order issued pursuant to this subchapter is subject to a civil penalty of not less than \$100 nor more than \$2,000 for each act of violation and for each day of violation.

(c) Any person operating, in charge of, or responsible for a facility or vessel which causes a discharge or spill as defined in this subchapter and fails to report said spill or discharge upon discovery thereof shall be guilty of a Class A misdemeanor.

(d) Any person who knowingly falsifies records or reports concerning the prevention or cleanup of a discharge or spill as provided for in this subchapter is guilty of a felony of the third degree.

(e) The penalties authorized by this subchapter for discharges and spills shall not apply to any discharge or spill promptly reported and removed by the responsible party in accordance with the rules and orders of the department, unless the department finds that the discharge or spill is the result of the negligence of the responsible party.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 4209, ch. 669, § 4, eff. Sept. 1, 1983.]

SUBCHAPTER H. INACTIVE HAZARDOUS SUBSTANCE, POLLUTANT, AND CONTAMINANT DISPOSAL FACILITIES

§ 26.301. Definitions

In this subchapter:

(1) "Disposal facility" means a site or area at which a hazardous substance, pollutant, or contaminant has been deposited, stored, disposed of, or placed or otherwise come to be located that no longer receives hazardous substances, pollutants, and contaminants.

(2) "Fund" means the disposal facility response fund.

(3) "Environmental response law" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law No. 96-510).¹

(4) "Hazardous substance" means:

(A) a substance designated pursuant to Section 311(b)(2)(A) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321);

(B) an element, compound, mixture, solution, or substance designated pursuant to Section 102 of the environmental response law;²

(C) a hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the federal Solid Waste Disposal Act, as amended (42 U.S.C. 6921), excluding waste, the regulation of which under the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) has been suspended by Act of Congress;

(D) a toxic pollutant listed under Section 307(a) of the Federal Water Pollution Control Act (33 U.S.C. 1317);

(E) a hazardous air pollutant listed under Section 112 of the federal Clean Air Act, as amended (42 U.S.C. 7412); and

(F) any imminently hazardous chemical substance or mixture with respect to which the administrator of the Environmental Protection Agency has taken action pursuant to Section 7 of the Toxic Substances Control Act (15 U.S.C. 2606).

The term does not include petroleum, including crude oil or any fraction of crude oil that is not otherwise specifically listed or designated as a hazardous substance under Paragraphs (A) through (F) of this subdivision, or natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel mixtures of natural gas and such synthetic gas.

(5) "Pollutant or contaminant" includes any element, substance, compound, or mixture, including disease-causing agents, that after release into the environment and on exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations in those organisms or their offspring. The term does not include petroleum, including crude oil and any fraction of crude oil that are not otherwise specifically listed or designated as hazardous substances under Sections 101(14)(A) through (F) of the environmental response law,³ nor does it include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.

(6) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, but excludes:

(A) a release that results in exposure to persons solely within a workplace, with respect to a claim which those persons may assert against the employer of those persons;

(B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine;

(C) release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.) if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of that Act,⁴ or, for the purposes of Section 104 of the environmental response law⁵ or any other response action, any release of source, by-product, or special nuclear material from any processing site designated under Section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7912 and 7942); and

(D) the normal application of fertilizer.

(7) "Removal" means the cleanup or removal of released hazardous substances, pollutants, or contaminants from the environment; the actions necessary to be taken in the event of the threat of release of hazardous substances, pollutants, or contaminants into the environment; the actions necessary to monitor, assess, and evaluate the release or threat of release of hazardous substances, pollutants, or contaminants; the disposal of removed material; or the taking of other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare or to the environment that may otherwise result from a release or threat of release. The term also includes security fencing or other measures to limit access, provision of alternate water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken under Section 104(b) of the environmental response law, and any emergency assistance that may be provided under the Disaster Relief Act of 1974 (42 U.S.C. 5121 et seq.).

(8) "Remedial action" means those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance, pollutant, or contaminant into the environment to prevent or minimize the release of hazardous substances, pollutants, or contaminants so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment. The term includes such actions at the location of the release as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances, pollutants, contaminants, or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff, on-site treatment or incineration, provision of alternate water supplies, and any monitoring reasonably required to assure that those actions protect the public health and welfare and the environment. The term includes the costs of permanent relocation of residents and businesses and community facilities

where the President of the United States determines that alone or in combination with other measures this relocation is more cost effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition off site of hazardous substances, pollutants, or contaminants, or may otherwise be necessary to protect the public health or welfare. The term does not include off-site transport of hazardous substances or the storage, treatment, destruction, or secure disposition off site of the hazardous substances, pollutants, contaminants, or contaminated materials unless the president determines that those actions:

(A) are more cost effective than other remedial actions;

(B) will create new capacity to manage, in compliance with Subtitle C of the federal Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), hazardous substances in addition to those located at the affected facility; or

(C) are necessary to protect public health or welfare or the environment from a present or potential risk that may be created by further exposure to the continued presence of those substances, pollutants, contaminants, or materials;

(9) "Response" means removal and remedial action.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

¹ See 42 U.S.C.A. § 9601 et seq.

² 42 U.S.C.A. § 9602.

³ 42 U.S.C.A. § 9601 (14)(A) to (F).

⁴ 42 U.S.C.A. § 2210.

⁵ 42 U.S.C.A. § 9604.

§ 26.302. Administrative Provisions

(a) The department shall administer this subchapter.

(b) The department shall cooperate with cities and towns and with agencies, departments, and political subdivisions of this state and the United States and its agencies in implementing this subchapter and the environmental response law.

(c) The board may adopt rules necessary to carry out this subchapter.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

§ 26.303. Contracts and Cooperative Agreements

(a) The department may enter into contracts and cooperative agreements with the federal government to carry out removal and remedial action for a specific disposal facility as authorized by Section 104(c)(3) of the environmental response law¹ or to carry out removal and remedial action with regard to a disposal facility under Section 104(d)(1) of the environmental response law.²

(b) After notice and hearing, the board may authorize the executive director to enter into contracts

and agreements on behalf of the department under Subsection (a) of this section pursuant to terms and conditions stated in the board's order.

(c) If the department enters into a contract or cooperative agreement under Section 104(c)(3) of the environmental response law, the board shall include in the contract or agreement terms and conditions:

(1) to assure future maintenance of the removal and remedial actions provided for the expected life of those actions as determined by the federal government;

(2) to assure the availability of a hazardous waste disposal facility acceptable to the federal government that complies with Subtitle C of the federal Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) for any necessary off-site storage, destruction, treatment, or secure disposition of the hazardous substances, pollutants or contaminants; and

(3) to assure payment by the state of:

(A) 10 percent of the costs of the remedial actions, including future maintenance; or

(B) at least 50 percent or more of the costs as determined appropriate by the federal government, taking into account the degree of responsibility of the state for any amount spent in response to a release at a disposal facility that was owned by the state at the time of disposal of hazardous substances at the disposal facility.

(d) A contract entered into with the federal government under Section 104(d)(1) of the environmental response law is subject to the same cost-sharing requirements provided for contracts in Subdivision (3) of Subsection (c) of this section.

(e) The state's share of reasonable response costs shall be paid from the fund.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

¹ 42 U.S.C.A. § 9604(c)(3).

² 42 U.S.C.A. § 9604(d)(1).

§ 26.304. Disposal Facility Response Fund

(a) The disposal facility response fund is established in the State Treasury and may be used for the purposes provided by Subsection (c) of this section.

(b) The fund shall include money appropriated to it by the legislature and any other money received by the department from the federal government.

(c) Money in the fund may be used only to provide the state's required share of funds under Section 104 of the environmental response law¹ and to pay for removal and remedial action as required by the federal government with regard to a disposal facility.

(d) Money in the fund may not be used for normal administrative and operating expenses of the department.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

¹ 42 U.S.C.A. § 9604.

§ 26.305. Consultation with Federal Government

Before entering into a contract or cooperative agreement under Section 26.303 of this code, the department shall consult and work with the federal government in determining the response that will be necessary under the contract or cooperative agreement with regard to the particular disposal facility.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

§ 26.306. State to Provide Information

The department shall collect and shall file with the federal government any information required by the environmental response law and rules adopted under that law.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

§ 26.307. State Response

The department may exercise any authority granted under this chapter if necessary to accomplish the purposes and requirements of the contract or cooperative agreement with the federal government.

[Acts 1981, 67th Leg., p. 267, ch. 110, § 1, eff. May 7, 1981.]

CHAPTER 27. INJECTION WELLS

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977, for disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, amending this Chapter, changed the heading from "Disposal Wells" to "Injection Wells".

SUBCHAPTER A. GENERAL PROVISIONS

§ 27.001. Short Title

This chapter may be cited as the Injection Well Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.002. Definitions

In this chapter:

- (1) "Commission" means the Texas Water Commission.
- (2) "Board" means the Texas Water Development Board.
- (3) "Executive director" means the executive director of the Texas Department of Water Resources.
- (4) "Department" means the Texas Department of Water Resources.
- (5) "Railroad commission" means the Railroad Commission of Texas.
- (6) "Pollution" means the alteration of the physical, chemical, or biological quality of, or the contamination of, water that makes it harmful,

detrimental, or injurious to humans, animal life, vegetation, or property or to public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(7) "Industrial and municipal waste" means any liquid, gaseous, solid, or other waste substance, or combination of these substances, which may cause or might reasonably be expected to cause pollution of fresh water and which result from:

(A) processes of industry, manufacturing, trade, or business;

(B) development or recovery of natural resources other than oil or gas; or

(C) disposal of sewage or other wastes of cities, towns, villages, communities, water districts, and other municipal corporations.

(8) "Oil and gas waste" means waste arising out of or incidental to drilling for or producing of oil, gas, or geothermal resources, waste arising out of or incidental to the underground storage of hydrocarbons other than storage in artificial tanks or containers, or waste arising out of or incidental to the operation of gasoline plants, natural gas processing plants, or pressure maintenance or repressurizing plants. The term includes but is not limited to salt water, brine, sludge, drilling mud, and other liquid or semi-liquid waste material.

(9) "Fluid" means a material or substance that flows or moves in a liquid, gaseous, solid, semi-solid, sludge, or other form or state.

(10) "Fresh water" means water having bacteriological, physical, and chemical properties which make it suitable and feasible for beneficial use for any lawful purpose.

(11) "Casing" means material lining used to seal off strata at and below the earth's surface.

(12) "Disposal well" means an injection well that is used for the injection of industrial and municipal waste or oil and gas waste.

(13) "Injection well" means an artificial excavation or opening in the ground made by digging, boring, drilling, jetting, driving, or some other method, and used to inject, transmit, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well initially drilled to produce oil and gas which is used to transmit, inject, or dispose of industrial and municipal waste or oil and gas waste into a subsurface stratum; or a well used for the injection of any other fluid; but the term does not include any surface pit, surface excavation, or natural depression used to dispose of industrial and municipal waste or oil and gas waste.

(14) "Extraction of minerals" means the use of an injection well for the development or recovery of natural resources other than resources subject to the jurisdiction of the railroad commission, and includes solution mining of minerals, in situ uranium mining, and mining of sulfur by the Frasch process, but does not include the solution mining

of salt when leaching a cavern for the storage of hydrocarbons.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.003. Policy and Purpose

It is the policy of this state and the purpose of this chapter to maintain the quality of fresh water in the state to the extent consistent with the public health and welfare, the operation of existing industries, and the economic development of the state, to prevent underground injection that may pollute fresh water, and to require the use of all reasonable methods to implement this policy.

[Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.004 to 27.010 reserved for expansion]

SUBCHAPTER B. JURISDICTION OF DEPARTMENT

§ 27.011. Permit From Commission

Unless the activity is subject to the jurisdiction of the railroad commission or authorized by a rule of the department, no person may continue utilizing an injection well or begin drilling an injection well or converting an existing well into an injection well to dispose of industrial and municipal waste, to extract minerals, or to inject a fluid without first obtaining a permit from the commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

Section 5 of the 1981 amendatory act provides:

"Each injection well permit or other authorization issued by the railroad commission before the effective date of this Act whose issuance is within the jurisdiction of the railroad commission under this Act is validated as of the date of its issuance, and the permit or authorization may not be held invalid on the basis of lack of jurisdiction of the railroad commission to issue it."

Acts 1977, 65th Leg., p. 1647, ch. 644, § 10, amended former § 22.011 (now, this section) effective upon delegation of NPDES permit authority. As so amended, the section read:

"No person may continue utilizing a disposal well or begin drilling a disposal well or converting an existing well into a disposal well to dispose of industrial and municipal waste without first obtaining a permit from the commission."

For complete provisions as to effective date of Acts 1977, 65th Leg., ch. 644, see note under § 26.001.

§ 27.012. Application for Permit

The department shall prescribe forms for application for a permit and shall make the forms available on request without charge.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.013. Information Required of Applicant

An applicant shall furnish any information the executive director considers necessary to discharge

his duties under this chapter and the rules of the board.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.014. Application Fee

With each application for a disposal well permit, the department shall collect a fee of \$25 for the benefit of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.015. Letter From Railroad Commission

A person making application to the department for a disposal well permit under this chapter shall submit with the application a letter from the railroad commission stating that drilling or using the disposal well and injecting industrial and municipal waste into the subsurface stratum will not endanger or injure any oil or gas formation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.016. Inspection of Well Location

On receiving an application for a permit, the executive director shall have an inspection made of the location of the proposed disposal well to determine the local conditions and the probable effect of the well and shall determine the requirements for the setting of casing, as provided in Sections 27.051, 27.055, and 27.056 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.017. Recommendations From Other Agencies

The executive director shall submit to the Texas Department of Health, the Water Well Drillers Board, and to other persons which the board may designate, copies of every application received in proper form. These agencies, persons, and divisions may make recommendations to the commission concerning any aspect of the application and shall have reasonable time to do so as the board may prescribe.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.018. Hearing on Permit Application

(a) If it is considered necessary and in the public interest, the commission may hold a public hearing on the application. The commission shall hold a hearing on a permit application for an injection well to dispose of industrial and municipal waste if a hearing is requested by a local government located in the county of the proposed disposal well site or by an affected person. In this subsection, "local

government' has the meaning provided for that term by Chapter 26 of this code.

(b) The board by rule shall provide for giving notice of the opportunity to request a public hearing on a permit application. The rules for notice shall include provisions for giving notice to local governments and affected persons. The board shall define "affected person" by rule.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.019. Rules, Etc.

(a) The department shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter.

(b) Copies of any rules under this chapter proposed by the board shall before their adoption be sent to the railroad commission, the executive director, the Texas Department of Health, the Water Well Drillers Board, and any other persons the board may designate. Any agency or person to whom the copies of proposed rules are sent may submit comments and recommendations to the board and shall have reasonable time to do so as the board may prescribe.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.020. Mining of Sulfur

The department is authorized to develop a regulatory program with respect to the injection of fluid associated with the mining of sulfur by the Frasch process in accordance with the provisions of this chapter. The department may not impose any requirements more stringent than those promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal Safe Drinking Water Act, 42 U.S.C. 300h et seq., as amended, unless the department determines that more stringent regulations are necessary to protect human health or the environment.

[Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.021 to 27.030 reserved for expansion]

SUBCHAPTER C. OIL AND GAS WASTE

§ 27.031. Permit From Railroad Commission

No person may continue using a disposal well or begin drilling a disposal well or converting an existing well into a disposal well to dispose of oil and gas waste without first obtaining a permit from the railroad commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.032. Information Required of Applicant

The railroad commission shall require an applicant to furnish any information the railroad commission considers necessary to discharge its duties under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.033. Letter From Executive Director

A person making application to the railroad commission for a permit under this chapter shall submit with the application a letter from the executive director stating that drilling and using the disposal well and injecting oil and gas waste into the subsurface stratum will not endanger the freshwater strata in that area and that the formation or stratum to be used for the disposal is not freshwater sand.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.034. Railroad Commission Rules, Etc.

(a) The railroad commission shall adopt rules and procedures reasonably required for the performance of its powers, duties, and functions under this chapter, including rules for notice and procedure of public hearings. The rules for notice shall include provisions for giving notice to local governments and affected persons. The railroad commission shall define "affected person" by rule.

(b) Copies of any rules under this chapter proposed by the railroad commission shall, before their adoption, be sent to the department, the Texas Department of Health, the Water Well Drillers Board, and any other persons the railroad commission may designate. Any agency or person to whom the copies of proposed rules and regulations are sent may submit comments and recommendations to the railroad commission and shall have reasonable time to do so as the railroad commission may prescribe.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.035. Jurisdiction Over in Situ Recovery of Tar Sands

(a) The railroad commission has jurisdiction over the in situ recovery of tar sands and may issue permits for injection wells used for the in situ recovery of tar sands.

(b) A person may not begin to drill an injection well to be used in the in situ recovery of tar sands unless that person has a valid permit for the well issued by the railroad commission under this chapter.

(c) The railroad commission shall adopt rules that are necessary to administer and regulate the in situ recovery of tar sands.

(d) For purposes of regulation by the railroad commission, an injection well for the in situ recovery of tar sands is designated as a Class V well under the underground injection control program administered by the railroad commission.

[Acts 1983, 68th Leg., p. 754, ch. 184, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 Act provides:

"(a) This Act takes effect September 1, 1983.

"(b) This Act does not invalidate any permit for an injection well used for the in situ recovery of tar sands that was issued by the Texas Water Commission before the effective date of this Act. Within 90 days after the effective date of this Act, the Railroad Commission of Texas shall issue a substitute permit under the name and authority of the railroad commission to each person who on the effective date of this Act holds a valid permit issued by the Texas Water Commission for an injection well used for in situ recovery of tar sands.

"(c) Application for injection well permits covering the in situ recovery of tar sands submitted to the Texas Department of Water Resources before the effective date of this Act for which permits have not been issued by the Texas Water Commission shall be transmitted to the Railroad Commission of Texas for processing and determination under Section 27.035 and other pertinent sections of Chapter 27, Water Code.

"(d) On September 1, 1983, the Railroad Commission of Texas shall assume jurisdiction over all injection wells used for the in situ recovery of tar sands for which permits were previously issued by the Texas Water Commission."

[Sections 27.036 to 27.050 reserved for expansion]

SUBCHAPTER D. ISSUANCE OF PERMITS: TERMS AND CONDITIONS

§ 27.051. Issuance of Permit

(a) The commission may grant an application in whole or part and may issue the permit if it finds:

- (1) that the use or installation of the injection well is in the public interest;
- (2) that no existing rights, including, but not limited to, mineral rights, will be impaired;
- (3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution; and
- (4) that the applicant has made a satisfactory showing of financial responsibility if required by Section 27.073 of this code.

(b) The railroad commission may grant an application in whole or part and may issue the permit if it finds:

- (1) that the use or installation of the injection well is in the public interest;
- (2) that the use or installation of the injection well will not endanger or injure any oil, gas, or other mineral formation;
- (3) that, with proper safeguards, both ground and surface fresh water can be adequately protected from pollution; and
- (4) that the applicant has made a satisfactory showing of financial responsibility if required by Section 27.073 of this code.

(c) In the permit, the commission or railroad commission shall impose terms and conditions reason-

ably necessary to protect fresh water from pollution, including the necessary casing.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981; Acts 1983, 68th Leg., p. 5265, ch. 967, § 14, eff. Sept. 1, 1983.]

§ 27.0511. Conditions of Certain Permits

(a) If the railroad commission receives an application for an injection well permit for a well that is to be used for enhanced recovery of oil, before a permit for the well may be granted, the railroad commission shall require the applicant for the permit to provide written information relating to the material that the applicant plans to inject into the well for enhanced recovery purposes and to other material available to the applicant that might be used to inject into the well for enhanced recovery and shall make the determination required by Subsection (b) of this section.

(b) On receiving the information required by Subsection (a) of this section, the railroad commission shall consider the information at the same time it considers whether or not to grant the permit, and if the applicant proposes to inject fresh water into the injection well for enhanced recovery, the railroad commission shall consider whether or not there is some other solid, liquid, or gaseous substance that is available to the applicant and that is economically and technically feasible for the applicant to use for enhanced recovery purposes.

(c) If the railroad commission finds that there is a solid, liquid, or gaseous substance other than fresh water available and economically and technically feasible for use in enhanced recovery under the permit, the railroad commission shall include as a condition of the permit, if granted, that the permittee use the other substance found to be available and economically and technically feasible and that the applicant not use fresh water or that the applicant use fresh water only to the extent specifically stated in the permit.

(d) This section does not apply to injection well permits that are in effect on September 1, 1983. If fresh water is being injected into an injection well in an enhanced recovery program that is in effect on September 1, 1983, and after that time, another substance or material is used for injection for a period of time, the injection well permit is not canceled, and a new permit under this chapter is not required if the operator plans at a later date to resume the use of fresh water for injection in that enhanced recovery program.

(e) Injection well permits for wells that are used for enhanced recovery remain in force until canceled by the railroad commission.

(f) No person may continue utilizing or begin utilizing industrial or municipal waste as an injec-

tion fluid for enhanced recovery purposes without first obtaining a permit from the department.

[Acts 1983, 68th Leg., p. 5392, ch. 996, § 1, eff. Sept. 1, 1983.]

Section 2 of the 1983 Act provides:

"This Act takes effect September 1, 1983, and applies to applications for injection well permits for wells that are to be used for enhanced recovery of oil, which applications are received by the Railroad Commission of Texas on or after that date. Applications received before September 1, 1983, are governed by the law in effect on the date the application was received by the railroad commission, and that law is continued in effect for that purpose."

§ 27.052. Copies of Permit; Filing Requirements

(a) The department shall furnish the railroad commission, the Texas Department of Health, and the Water Well Drillers Board with a copy of each permit the commission issues. The railroad commission shall furnish the department with a copy of each permit the railroad commission issues and the executive director shall in turn forward copies to the Texas Department of Health and the Water Well Drillers Board.

(b) Before beginning injection operations, a person receiving a permit to inject industrial and municipal waste shall file a copy of the permit with the health authorities of the county, city, and town where the well is located.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.053. Record of Strata

The commission or railroad commission may require a person receiving a permit or authorization by rule under this chapter to keep and furnish a complete and accurate record of the depth, thickness, and character of the different strata penetrated in drilling the injection well.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.054. Electric or Drilling Log

If an existing well is to be converted to an injection well, the commission or railroad commission may require the applicant to furnish an electric log or a drilling log of the existing well.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.055. Casing Requirements

The casing shall be set at the depth, with the materials, and in the manner required by the commission or railroad commission.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.056. Factors in Setting Casing Depth

Before setting the depth to which casing shall be installed, the commission or railroad commission shall consider:

- (1) known geological and hydrological conditions and relationships;
- (2) foreseeable future economic development in the area; and
- (3) foreseeable future demand for the use of fresh water in the locality.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.057 to 27.070 reserved for expansion]

SUBCHAPTER E. GENERAL POWERS

§ 27.071. Power to Enter Property

Members of the board and the railroad commission and employees of the department and the railroad commission may enter public or private property to inspect and investigate conditions relating to injection well or disposal well activities within their respective jurisdictions or to monitor compliance with a rule, permit, or other order of the department or railroad commission. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

[Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.072. Power to Examine Records

Members of the board and the railroad commission and employees of the department and railroad commission may examine and copy those records or memoranda of a business they are investigating as provided by Section 27.071 of this code that relate to the operation of an injection or disposal well, or any other records required to be maintained by law.

[Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.073. Financial Responsibility

A person to whom an injection well permit is issued may be required by the department or railroad commission to maintain a performance bond or other form of financial security to ensure that an abandoned well is properly plugged.

[Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

[Sections 27.074 to 27.100 reserved for expansion]

SUBCHAPTER F. CIVIL AND CRIMINAL REMEDIES

§ 27.101. Civil Penalty

(a) A person who violates any provision of this chapter, any rule of the board or the railroad com-

mission made under this chapter, or any term, condition, or provision of a permit issued under this chapter shall be subject to a civil penalty in any sum not exceeding \$5,000 for each day of noncompliance and for each act of noncompliance.

(b) The action may be brought by the executive director or the railroad commission in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.1011. Administrative Penalty

(a) If a person violates the provisions of this chapter or a rule, order, license, permit, or certificate issued under this chapter, the person may be assessed a civil penalty by the railroad commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

[Acts 1983, 68th Leg., p. 1411, ch. 286, § 3, eff. Aug. 29, 1983.]

§ 27.1012. Penalty Assessment Procedure

(a) A civil penalty may be assessed only after the person charged with a violation described under Section 27.1011 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The railroad commission shall then issue an order requiring that the penalty be paid.

[Acts 1983, 68th Leg., p. 1411, ch. 286, § 3, eff. Aug. 29, 1983.]

§ 27.1013. Payment of Penalty; Refund

(a) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the person charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the railroad commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post with the railroad commission a supersedeas bond in a form approved by the railroad commission for the amount of the penalty, such bond to be effective until all judicial review of the order or decision is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the railroad commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the railroad commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the railroad commission shall execute a release of such bond.

(d) Failure to forward the money to the railroad commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the railroad commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 1411, ch. 286, § 3, eff. Aug. 29, 1983.]

§ 27.1014. Recovery of Penalty

Civil penalties owed under Sections 27.1011-27.1013 of this code may be recovered in a civil action brought by the attorney general at the request of the railroad commission.

[Acts 1983, 68th Leg., p. 1411, ch. 286, § 3, eff. Aug. 29, 1983.]

§ 27.102. Injunction, Etc.

The executive director or the railroad commission may enforce this chapter, any valid rule made under

this chapter, or any term, condition, or provision of a permit issued by the commission or railroad commission under this chapter by injunction or other appropriate remedy. The suit shall be brought in a court of competent jurisdiction in the county where the offending activity is occurring.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.103. Procedure

(a) At the request of the executive director or the railroad commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in Sections 27.101 and 27.102 of this chapter.

(b) Any party to a suit may appeal from a final judgment as in other civil cases.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.104. Effect of Permit on Civil Liability

The fact that a person has a permit issued under this chapter does not relieve him from any civil liability.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

§ 27.105. Criminal Fines

(a) A person who knowingly or intentionally violates this chapter, a rule of the board or railroad commission, or a term, condition, or provision of a permit issued under this chapter is subject to a fine of not more than \$5,000 for each violation and for each day of violation.

(b) Venue for prosecution of an alleged violation is in the county in which the violation is alleged to have occurred or where the defendant resides.

[Acts 1981, 67th Leg., p. 3161, ch. 830, § 1, eff. June 17, 1981.]

Section 4 of the 1981 Act provides:

"Section 27.105 as added by this Act to Chapter 27, Water Code, as amended, applies only to violations of that chapter and of rules and permits that occur on or after the effective date of this Act."

CHAPTER 28. WATER WELLS AND DRILLED OR MINED SHAFTS

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- 28.066. Enforcement by Local Governments and Others

Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

Acts 1983, 68th Leg., p. 651, ch. 148, § 1, amended this chapter, the amendment including the renumbering of former §§ 28.002 to 28.004 as §§ 28.011 to 28.013, respectively.

SUBCHAPTER A. GENERAL PROVISIONS

§ 28.001. Definitions

In this chapter:

- (1) "Department" means the Texas Department of Water Resources.
- (2) "Commission" means the Texas Water Commission.
- (3) "Executive Director" means the executive director of the Texas Department of Water Resources.
- (4) "Board" means the Texas Water Development Board.
- (5) "Shaft" means any vertically oriented excavation, whether constructed by drilling or mining techniques, where the depth of the excavation is greater than its diameter, the excavation penetrates into or through the base of the uppermost

water-bearing strata, and the primary purpose of the excavation is the transport of workers and materials to and from a destination, at depth, for purposes of geological studies, access to existing and planned subsurface mine workings, or for ventilation of those workings.

(6) "Water" or "water in the state" means groundwater, percolating or otherwise, lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico inside the territorial limits of the state, and all other bodies of natural and artificial surface water that is inland or coastal, fresh or salt, and navigable or nonnavigable, and includes the beds and banks of all water-courses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the jurisdiction of the state.

(7) "Surface facilities" means the on-site above-ground appurtenances, structures, equipment, and other fixtures that are or will be used for storage or processing or in conjunction with the shaft operation.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

[Sections 28.002 to 28.010 reserved for expansion]

SUBCHAPTER B. WATER WELLS

§ 28.011. Underground Water: Regulations

The department shall make and enforce rules and regulations for conserving, protecting, preserving, and distributing underground, subterranean, and percolating water located in this state and shall do all other things necessary for these purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered from § 28.002 by Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.012. Certain Wells to be Plugged or Cased

The owner of a water well which encounters salt water or water containing mineral or other substances injurious to vegetation or agriculture shall securely plug or case the well in a manner that will effectively prevent the water from escaping from the stratum in which it is found into another water-bearing stratum or onto the surface of the ground.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered from § 28.003 by Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.013. Penalty

If the owner of a well that is required to be cased or plugged by this chapter fails or refuses to case or plug the well within the 30-day period following the date of the commission's order to do so or if a person fails to comply with any other order issued by the commission under this chapter within the 30-day period following the date of the order, he is guilty of a misdemeanor and upon conviction is

punishable by a fine of not less than \$10 nor more than \$500. He commits a separate offense each day the failure or refusal continues after the 30-day period.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977. Renumbered from § 28.004 by Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

[Sections 28.014 to 28.020 reserved for expansion]

SUBCHAPTER C. DRILLED OR MINED SHAFTS

§ 28.021. Permit From Commission

No person desiring to drill, excavate, or otherwise construct a shaft as defined in this chapter may commence construction without first obtaining a permit for such work from the commission.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.022. Application for Permit

The department shall prescribe forms for application for a permit and shall make the forms available on request without charge.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.023. Information Required of Applicant

An applicant shall furnish any information the department considers necessary to discharge its duties under this chapter and the rules of the board.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.024. Application Fee

With each application for a shaft permit, the department shall collect a fee as set by the executive director to reasonably offset the costs to the department for processing the application. The fee may not be less than \$10,000.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.025. Letter From Railroad Commission

A person making application to the department for a shaft permit shall submit with the application a letter from the railroad commission stating that such shaft construction will not endanger or injure any oil or gas formation or significantly limit the potential for future recovery of or exploration for oil or gas.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.026. Inspection of Shaft Location

On receiving an application for a permit, the executive director shall have an inspection made of the location of the proposed shaft to determine the local conditions and probable effect of the shaft on water in the state and shall determine the require-

ments for setting of casing, liners, and seals as provided in Sections 28.030, 28.036, and 28.037 of this chapter.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.027. Recommendations From Other Agencies

The executive director shall submit to such state agencies and other persons that the board may designate copies of every application received in proper form. These agencies, persons, and divisions may make recommendations to the commission concerning any aspect of the application and shall have reasonable time to do so as the board may prescribe.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.028. Hearing on Permit Application

(a) The commission shall hold an adjudicatory hearing on the application.

(b) The board by rule shall provide for giving notice of a public hearing on a permit application. The rules for notice shall include provisions for giving notice to local governments and interested persons.

(c) The hearing required in Subsection (a) of this section shall be conducted in accordance with rules for contested cases under the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes). Any person, corporation, partnership, association, local government, government agency, or other entity shall be allowed to participate in a hearing as a party under this section upon a showing of sufficient interest or of an ability to contribute to the resolution of relevant issues.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.029. Delegation of Hearing Powers

(a) The commission may authorize the chief hearing examiner to call and hold hearings on any subject on which the commission may hold a hearing.

(b) The commission may also authorize the chief hearing examiner to delegate to one or more hearing examiners the authority to hold any hearing called by him.

(c) At any hearing called by the chief hearing examiner, he or the person delegated the authority by him to hold the hearing is empowered to administer oaths and receive evidence.

(d) The individual or individuals holding a hearing under the authority of this section shall report the hearing in the manner prescribed by the commission.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.030. Rules, Etc.

(a) The board shall adopt rules reasonably required for the performance of the powers, duties, and functions of the department under this chapter.

(b) Such rules shall be published as proposed rules, as prescribed by the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes), no later than 120 days after the enactment of this section and shall provide reasonable time for the board to receive comments and recommendations from interested agencies and the public before adoption by the board.

(c) No shaft permit shall be issued by the commission pursuant to this chapter nor shall a permit hearing be held on a shaft application until the board has adopted rules for the issuance of such shaft permit.

(d) The department or commission may refuse to accept a shaft permit application or hold a shaft permit application hearing if the planned siting of the shaft is the subject of litigation.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.031. Issuance of Permit

(a) The commission may grant an application in whole or part and may issue the shaft permit if it finds:

(1) that the use or installation of the shaft is in the public interest and that after consideration of all siting alternatives there is a public need for construction of the shaft at the location for which the application is made;

(2) that no existing rights, including but not limited to mineral rights and water rights, will be impaired;

(3) that, with proper safeguards, both ground and surface water can be adequately protected from pollution; and

(4) that the applicant has made a satisfactory showing of financial responsibility if required by Subsection (b) of Section 28.053 of this chapter.

(b) In the permit the commission shall impose terms and conditions reasonably necessary to protect all water from pollution, including the necessary casing, liners, seals and surface facilities.

(c) In the permit the commission shall impose terms and conditions for final closure of surface facilities and plugging and sealing of the shaft reasonably necessary to protect all water penetrated from pollution.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.032. Copies of Permit; Filing Requirements

(a) The department shall furnish the railroad commission with a copy of each shaft permit the commission issues.

(b) Before beginning shaft construction, a person receiving a shaft permit shall file a copy of the permit with the commissioners court of the county in which the shaft is to be located.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.033. Record of Strata

(a) The commission shall require a person applying for a shaft permit to drill or have drilled a test hole on center or offset to the shaft and provide the following to the department and the railroad commission in the application:

- (1) a description of the lithology into or through the lower confining strata;
- (2) results of rock testing;
- (3) geophysical logs; and
- (4) other information that may be required by the department.

(b) The commission shall require a person receiving a shaft permit to keep and furnish to the department and the railroad commission a complete and accurate record of the depth, thickness, and character of the different strata or rock units penetrated in constructing the shaft.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.034. Geophysical and Drilling Log

If the shaft is to be constructed over, around, or within 2,000 feet of an existing drilled borehole or boreholes, the commission shall require the applicant for a shaft permit to furnish such geophysical logs as may be required by the department, including electric logs, and the drilling log and well completion record of all existing boreholes to the department, along with a complete and accurate core data record of the depth, thickness, and character of the different strata or rock units penetrated as a part of the shaft application.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.035. Seismic Reflection Survey

The department shall require as a part of any shaft application a seismic reflection survey and velocity control data conforming, at minimum, to specifications established by the department in the rules provided for in Subsection (a) of Section 28.030 of this chapter.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.036. Casing, Liner, and Seal Requirements

(a) The casing, liners, and seal(s) shall be set at the depth, with the materials, and in the manner required by the commission.

(b) The permittee shall provide records as required by the executive director to indicate compliance with Subsection (a) of this section.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.037. Factors in Setting Casing, Liner, and Seal Requirements

Before setting the casing, liner, and seal requirements, the commission shall consider:

- (1) known geological and hydrological conditions and relationships;
- (2) foreseeable future economic development in the area; and
- (3) foreseeable future demand for the use of fresh water in the locality.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.038. Environmental Report

If an environmental report, environmental assessment, or environmental impact statement of any kind that includes an analysis of the environmental impacts of the shaft construction or operation is required by any federal or state agency before approval to construct the shaft, the environmental document, along with evidence of the needed approvals that have been granted, must be submitted to the department as part of the shaft permit application, and the department shall make the environmental document available for public review and comment for a period of not less than 30 days before the application for the shaft permit is considered.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

[Sections 28.039 to 28.050 reserved for expansion]

SUBCHAPTER D. COMMISSION AUTHORITY

§ 28.051. Power to Enter Property

Members of the commission, employees and agents of the commission and department, and authorized agents or employees of local governments may enter public or private property at any time to inspect and investigate conditions relating to shaft activities or to monitor compliance with a rule, permit, or other order of the commission, board, or department. Members, employees, or agents acting under the authority of this section who enter an establishment on public or private property shall observe the establishment's safety, internal security, and fire protection rules.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.052. Power to Examine Records

Members of the commission, employees and agents of the commission and department, and authorized agents or employees of local governments

may examine and copy those records or memoranda of a shaft permittee or his contractors they are investigating or monitoring as provided by Section 28.051 of this chapter that relate to the construction and operation of a shaft or any other records required to be maintained by law.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.053. Financial Responsibility

(a) The commission may require in a shaft permit that the permittee reimburse the department for reasonable costs of monitoring and on-site, full-time surveillance to determine compliance with a rule, permit, or other order of the board or department.

(b) A person to whom a shaft permit is issued may be required by the commission to maintain a performance bond or other form of financial security to ensure payment of costs that may become due in accord with Subsection (a) of this section or to ensure that an abandoned shaft is safely and properly sealed and plugged.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

[Sections 28.054 to 28.060 reserved for expansion]

SUBCHAPTER E. ENFORCEMENT

§ 28.061. Civil Penalty

(a) A person who violates any provision of this chapter, any rule of the department or commission made under this chapter, or any term, condition, or provision of a permit issued under this chapter shall be subject to a civil penalty in a sum not exceeding \$10,000 for each day of noncompliance and for each act of noncompliance.

(b) The action may be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.062. Injunction, Etc.

(a) The executive director may enforce this chapter, any valid rule made under this chapter, or any term, condition, or provision of a permit issued by the commission under this chapter by injunction or other appropriate remedy. The suit shall be brought either in the county in which the defendant resides or in the county in which the violation or threat of violation occurs.

(b) In any suit brought to enjoin a violation or threat of violation of this chapter or any rule, permit, or order of the commission, board, or department, the court may grant the department, without bond or other undertaking, any prohibitory or mandatory injunction the facts may warrant, including temporary restraining orders, after notice

and hearing, temporary injunctions, and permanent injunctions.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.063. Procedure

(a) At the request of the executive director, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty or for both the injunctive relief and civil penalty authorized in Sections 28.061 and 28.062 of this chapter.

(b) Any party to a suit may appeal from a final judgment as in other civil cases.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.064. Effect of Permit on Civil Liability

The fact that a person has a permit issued under this chapter does not relieve him from any civil liability.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.065. Criminal Penalties

(a) A person who knowingly or intentionally violates this chapter, a rule of the board or commission, or a term, condition, or provision of a permit issued under this chapter is subject to a fine of not more than \$10,000 for each violation and for each day of violation.

(b) Venue for prosecution of an alleged violation is in either the county in which the defendant resides or in which the violation occurs.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

§ 28.066. Enforcement by Local Governments and Others

(a) If a local government is denied access to property or records as provided in this Act, the local government may bring suit in a district court in the county in which the violation occurs for an appropriate order to obtain access to the property or records or to recover civil penalties or for both an order and the penalties provided by Subsection (b) of this section. Civil penalties recovered in a suit under this subsection shall be paid to the local government.

(b) A permittee who denies access to property or records to a local government as provided by this Act is liable to a civil penalty of not less than \$100 and not more than \$1,000 for each violation.

(c) A local government or any person may file a written complaint with the department and request an investigation of an alleged violation by a permittee under this Act. The department shall reply to the complaint in writing within 30 days after receipt of the complaint and shall provide a copy of any investigation reports relevant to the complaint to

gether with a determination of whether or not the alleged violation was committed.

(d) If the department does not have a suit brought in court under this Act within 60 days after the written complaint is filed under Subsection (c) of this section, the local government or person may bring suit in the appropriate court in the county in which the alleged violation occurred or is about to occur in the manner provided for suits by the department under Sections 28.061 and 28.062 of this Act. Penalties collected in a suit under this subsection shall be paid to the state. In a suit brought by a local government or person under this subsection, the court shall include in any final judgment in favor of the local government or person an award to cover reasonable court costs and attorney's fees.

[Acts 1983, 68th Leg., p. 651, ch. 148, § 1, eff. May 18, 1983.]

CHAPTER 29. SALT WATER HAULERS

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29.002. Definitions.

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29.012. Application Form.
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29.015. Bond.
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- 29.041. Hauling Without Permit.
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SUBCHAPTER E. CIVIL ENFORCEMENT

- 29.051. Civil Penalty.
29.052. Injunction.
29.053. Procedure.

Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised

Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. GENERAL PROVISIONS

§ 29.001. Short Title

This chapter may be cited as the Salt Water Haulers Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.002. Definitions

In this chapter:

(1) "Person" means an individual, association of individuals, partnership, corporation, receiver, trustee, guardian, executor, or a fiduciary or representative of any kind.

(2) "Railroad commission" means the Railroad Commission of Texas.

(3) "Salt water" means water containing salt or other mineralized substances produced by drilling an oil or gas well or produced in connection with the operation of an oil or gas well.

(4) "Hauler" means a person who transports salt water for hire by any method other than by pipeline.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 29.003 to 29.010 reserved for expansion]

SUBCHAPTER B. PERMITS

§ 29.011. Application for Permit

Any person may apply to the railroad commission for a permit to haul and dispose of salt water.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.012. Application Form

The railroad commission shall prescribe a form on which an application for a permit may be made and shall provide the form to any person who wishes to submit an application.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.013. Contents of Application

The application for a permit shall:

(1) state the number of vehicles the applicant plans to use for salt water hauling;

(2) affirmatively show that the vehicles are designed so that they will not leak during transportation of salt water;

(3) include an affidavit from a person who operates an approved system of salt water disposal stating that the applicant has permission to use the approved system;

(4) state the applicant's name, business address, and permanent mailing address; and

(5) include other relevant information required by railroad commission rules.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.014. Rejecting an Application

If an application for a permit does not comply with Section 29.013 of this code or with reasonable rules of the railroad commission, the railroad commission may reject the application.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.015. Bond

Before issuing a permit to a person whose application it has approved, the railroad commission shall require the person to file with it a bond in the amount of \$5,000, guaranteed by a corporate surety company and conditioned on the payment of full damages to any person who may acquire a judgment against the permittee for damages done to the person's property by the permittee's improper hauling, handling, or disposal of salt water. However, the railroad commission may dispense with the bond requirement on a proper showing of financial responsibility.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§§ 29.016, 29.017. Repealed by Acts 1983, 68th Leg., p. 5267, ch. 967, § 16, eff. Sept. 1, 1983

§ 29.018. Suspension; Refusal to Renew

The railroad commission may suspend or refuse to renew a permit for a period not to exceed one year if the permittee:

- (1) violates the provisions of this chapter;
- (2) violates reasonable rules promulgated under Section 29.031 of this code; or
- (3) does not maintain his operation at the standards that entitled him to a permit under Section 29.013 of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 5266, ch. 967, § 15, eff. Sept. 1, 1983.]

The text of this section incorporates the amendment to former § 24.018 by Acts 1977, 65th Leg., p. 1654, ch. 650, § 1.

§ 29.019. Appeal

Any person whose permit application is refused, whose permit is suspended, or whose application for permit renewal is refused by the railroad commission may file a petition in an action to set aside the railroad commission's act within the 30-day period immediately following the day he receives notice of the railroad commission's action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.020. Suit to Compel Railroad Commission to Act

If the railroad commission does not act within a reasonable time after a person applies for a permit or for renewal of a permit, the applicant may notify the railroad commission of his intention to file suit. After 10 days have elapsed since the day the notice was given, the applicant may file a petition in an action to compel the railroad commission to show cause why it should not be directed by the court to take immediate action.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.021. Venue

The venue in actions under Sections 29.019 and 29.020 of this code is fixed exclusively in the district courts of Travis County.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 29.022 to 29.030 reserved for expansion]

SUBCHAPTER C. COMMISSION AUTHORITY

§ 29.031. Rulemaking Power

The railroad commission shall adopt rules to effectuate the provisions of this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 5264, ch. 967, § 12, eff. Sept. 1, 1983.]

§ 29.032. Copies of Rules

The railroad commission shall print the rules and provide copies to persons who apply for them.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 5264, ch. 967, § 12, eff. Sept. 1, 1983.]

§ 29.033. Effective Date of Rules

No rule or amendment to a rule is effective until after the 30-day period immediately following the day on which a copy of the rule is filed with the Secretary of State.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1983, 68th Leg., p. 5264, ch. 967, § 12, eff. Sept. 1, 1983.]

§ 29.034. Access to Property

Members and employees of the railroad commission, on proper identification, may enter public or private property to inspect and investigate conditions relating to the hauling of salt water, to monitor compliance with a rule, permit, or other order of the railroad commission, or to examine and copy, during reasonable working hours, those records or memoranda of the business being investigated. Members or employees acting under the authority of this section who enter an establishment on public or private property shall observe the establish-

ment's safety, internal security, and fire protection rules.

[Acts 1983, 68th Leg., p. 5264, ch. 967, § 12, eff. Sept. 1, 1983.]

[Sections 29.035 to 29.040 reserved for expansion]

SUBCHAPTER D. OFFENSES; PENALTIES

§ 29.041. Hauling Without Permit

No hauler may haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced unless the hauler has a permit issued under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.042. Exception

A person may haul salt water for use in connection with drilling or servicing an oil or gas well without obtaining a hauler's permit under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.043. Using Haulers Without Permit

No person may knowingly utilize the services of a hauler to haul and dispose of salt water off the lease, unit, or other oil or gas property where it is produced if the hauler does not have a permit as required under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.044. Disposing of Salt Water

(a) No hauler may dispose of salt water on public roads or on the surface of public land or private property in this state in other than a railroad commission-approved disposal pit without written authority from the railroad commission.

(b) No hauler may dispose of salt water on property of another without the written authority of the landowner.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.045. Use of Unmarked Vehicles

No person who is required to have a permit under this chapter may haul salt water in a vehicle that does not bear the owner's name and the hauler's permit number. This information shall appear on both sides and the rear of the vehicle in characters not less than three inches high.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.046. Penalty

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor

more than \$1,000 or by confinement in the county jail for not more than 10 days or by both.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 29.047. Administrative Penalty

(a) If a person violates the provisions of this chapter or a rule, order, license, permit, or certificate issued under this chapter, the person may be assessed a civil penalty by the railroad commission.

(b) The penalty may not exceed \$10,000 a day for each violation. Each day a violation continues may be considered a separate violation for purposes of penalty assessments.

(c) In determining the amount of the penalty, the railroad commission shall consider the permittee's history of previous violations of this chapter, the seriousness of the violation, any hazard to the health or safety of the public, and the demonstrated good faith of the permittee or person charged.

[Acts 1983, 68th Leg., p. 1421, ch. 286, § 7, eff. Aug. 29, 1983.]

§ 29.048. Penalty Assessment Procedure

(a) A civil penalty may be assessed only after the permittee or person charged with a violation described under Section 29.047 of this code has been given an opportunity for a public hearing.

(b) If a public hearing has been held, the railroad commission shall make findings of fact, and it shall issue a written decision as to the occurrence of the violation and the amount of the penalty that is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.

(c) If appropriate, the railroad commission shall consolidate the hearings with other proceedings under this chapter.

(d) If the permittee or person charged with the violation fails to avail himself of the opportunity for a public hearing, a civil penalty may be assessed by the railroad commission after it has determined that a violation did occur and the amount of the penalty that is warranted.

(e) The railroad commission shall then issue an order requiring that the penalty be paid.

[Acts 1983, 68th Leg., p. 1421, ch. 286, § 7, eff. Aug. 29, 1983.]

§ 29.049. Payment of Penalty; Refund

(a) On the issuance of an order finding that a violation has occurred, the railroad commission shall inform the permittee and any other person charged within 30 days of the amount of the penalty.

(b) Within the 30-day period immediately following the day on which the decision or order is final as provided in Section 16(c), Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), the person charged with the penalty shall:

- (1) pay the penalty in full; or
- (2) if the person seeks judicial review of either the amount of the penalty or the fact of the violation, or both:

(A) forward the amount to the railroad commission for placement in an escrow account; or

(B) in lieu of payment into escrow, post a supersedeas bond with the railroad commission under the following conditions. If the decision or order being appealed is the first final railroad commission decision or order assessing any administrative penalty against the person, the railroad commission shall accept a supersedeas bond. In the case of appeal of any subsequent decision or order assessing any administrative penalty against the person, regardless of the finality of judicial review of any previous decision or order, the railroad commission may accept a supersedeas bond. Each supersedeas bond shall be for the amount of the penalty and in a form approved by the railroad commission and shall stay the collection of the penalty until all judicial review of the decision or order is final.

(c) If through judicial review of the decision or order it is determined that no violation occurred or that the amount of the penalty should be reduced or not assessed, the railroad commission shall, within the 30-day period immediately following that determination, if the penalty has been paid to the railroad commission, remit the appropriate amount to the person, with accrued interest, or where a supersedeas bond has been posted, the railroad commission shall execute a release of such bond.

(d) Failure to forward the money to the railroad commission within the time provided by Subsection (b) of this section results in a waiver of all legal rights to contest the violation or the amount of the penalty.

(e) Judicial review of the order or decision of the railroad commission assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with the district court of Travis County, Texas, and not elsewhere, as provided for in Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

[Acts 1983, 68th Leg., p. 1421, ch. 286, § 7, eff. Aug. 29, 1983.]

§ 29.050. Recovery of Penalty

Civil penalties owed under Sections 29.047-29.049 of this code may be recovered in a civil action brought by the attorney general at the request of the railroad commission.

[Acts 1983, 68th Leg., p. 1421, ch. 286, § 7, eff. Aug. 29, 1983.]

SUBCHAPTER E. CIVIL ENFORCEMENT

§ 29.051. Civil Penalty

(a) A person who violates this chapter, a rule or order of the railroad commission adopted under this chapter, or a term, condition, or provision of a permit issued under this chapter, is subject to a civil penalty of not to exceed \$10,000 for each offense. Each day a violation is committed is a separate offense.

(b) An action to recover the penalty under Subsection (a) of this section may be brought by the railroad commission in any court of competent jurisdiction in the county in which the offending activity occurred, in which the defendant resides, or in Travis County.

[Acts 1983, 68th Leg., p. 5265, ch. 967, § 13, eff. Sept. 1, 1983.]

Section 18 of the 1983 Act provides:

"This Act takes effect September 1, 1983, and applies only to offenses and violations committed on or after that date. Offenses or violations committed before the effective date of this Act are subject to prosecution under that law as it existed when the offense or violation occurred, and that law is continued in effect for that purpose. For the purpose of this Act, an offense or violation is committed before the effective date of this Act if any element of the offense or violation occurs before that effective date."

§ 29.052. Injunction

The railroad commission may enforce this chapter, a valid rule or order made under this chapter, or a term or condition of a permit issued by the railroad commission under this chapter by injunction or other appropriate remedy. The action may be brought in a court of competent jurisdiction in the county in which the offending activity has occurred, in which the defendant resides, or in Travis County.

[Acts 1983, 68th Leg., p. 5265, ch. 967, § 13, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 29.051.

§ 29.053. Procedure

(a) At the request of the railroad commission, the attorney general shall institute and conduct a suit in the name of the state for injunctive relief or other appropriate remedy or to recover a civil penalty as provided by Section 29.051 or 29.052 of this code or for both injunctive relief or other appropriate remedy and recovery of a civil penalty.

(b) A party to a suit may appeal from a final judgment as in other civil cases.

[Acts 1983, 68th Leg., p. 5265, ch. 967, § 13, eff. Sept. 1, 1983.]

For applicability of 1983 Act to offenses and violations committed on or after September 1, 1983, and for law governing prosecution of offenses and violations committed prior to that date, see note under § 29.051.

CHAPTER 30. REGIONAL WASTE DISPOSAL

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Acts 1977, 65th Leg., p. 2207, ch. 870, revised Title 2 of the Water Code, effective September 1, 1977. For disposition of provisions of former Title 2 in the revised Title, see Disposition Table preceding § 5.001.

SUBCHAPTER A. GENERAL PROVISIONS

§ 30.001. Short Title

This chapter may be cited as the Regional Waste Disposal Act.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.002. Purpose

The purpose of this chapter is to authorize public agencies to cooperate for the safe and economical collection, transportation, treatment, and disposal of waste in order to prevent and control pollution of water in the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.003. Definitions

In this chapter:

(1) "City" means any incorporated city or town, whether operating under general law or under its home-rule charter.

(2) "District" means any district or authority created and existing under Article XVI, Section 59 or Article III, Section 52 of the Texas Constitution, including any river authority.

(3) "Public agency" means any district, city, or other political subdivision or agency of the state which has the power to own and operate waste collection, transportation, treatment, or disposal facilities or systems, and any joint board created under the provisions of Section 14, Chapter 114, Acts of the 50th Legislature, Regular Session, 1947 (Article 46d-14, Vernon's Texas Civil Statutes).

(4) "River authority" means any district or authority created by the legislature which contains an area within its boundaries of one or more counties and which is governed by a board of directors appointed or designated in whole or in part by the governor, or by the Texas Water Development Board, including without limitation the San Antonio River Authority.

(5) "River basins" and "coastal basins" mean the river basins and coastal basins now defined and designated by the Texas Water Development Board as separate units for the purposes of water development and inter-watershed transfers, and as they are made certain by contour maps on file in the offices of the Texas Department of Water Resources, including but not limited to the rivers and their tributaries, streams, water, coastal water, sounds, estuaries, bays, lakes, and portions of them, as well as the lands drained by them.

(6) "Waste" means sewage, industrial waste, municipal waste, recreational waste, agricultural waste, waste heat, or other waste that may cause impairment of the quality of water in the state, including storm waters.

(7) The terms "sewage," "municipal waste," "recreational waste," "agricultural waste," "in-

dustrial waste," "other waste," "pollution," "water," or "water in the state," and "local government" shall have the meanings defined in Section 26.001 of this code.

(8) "Sewer system" means pipelines, conduits, storm sewers, canals, pumping stations, force mains, and all other constructions, devices, and appurtenant appliances used to transport waste.

(9) "Treatment facility" means any devices and systems used in the storage, treatment, recycling, and reclamation of waste to implement Chapter 26 of this code or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply, such as standby treatment units and clear well facilities; any works, including sites therefor and acquisition of the land that will be part of or used in connection with the treatment process or is used for ultimate disposal of residues resulting from such treatment; and any plant, disposal field, lagoon, canal, incinerator, area devoted to sanitary landfills, or other facilities installed for the purpose of treating, neutralizing, or stabilizing waste or facilities to provide for the collection, control, and disposal of waste heat.

(10) "Disposal system" means any system for disposing of waste, including sewer systems and treatment facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977; Acts 1979, 66th Leg., p. 2185, ch. 834, § 3, eff. Aug. 27, 1979.]

§ 30.004. Cumulative Effect of Chapter

(a) This chapter is cumulative of other statutes governing the Texas Department of Health Resources¹ and the Texas Department of Water Resources relating to:

- (1) the issuance of bonds;
- (2) the collection, transportation, treatment, or disposal of waste; and
- (3) the design, construction, acquisition, or approval of facilities for these purposes.

(b) The powers granted to districts and public agencies by this chapter are additional to and cumulative of the powers granted by other laws. This chapter is full authority for any district or public agency to enter into contracts authorized by it and for any district to authorize and issue bonds under its provisions without reference to the provisions of any other law or charter. No other law or charter provision which limits, restricts, or imposes additional requirements on matters authorized by this chapter shall apply to any action or proceeding

under this chapter unless expressly provided to the contrary in this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Name changed to Department of Health; see Civil Statutes, art. 4418g.

§ 30.005. Construction of Chapter

The terms and provisions of this chapter shall be liberally construed to accomplish its purposes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 30.006 to 30.020 reserved for expansion]

SUBCHAPTER B. REGIONAL WASTE DISPOSAL SYSTEMS

§ 30.021. Disposal System

A district may acquire, construct, improve, enlarge, extend, repair, operate, and maintain one or more disposal systems.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.022. Purchase and Sale of Facilities

A district may contract with any person to purchase or sell by installments over such term as considered desirable any waste collection, transportation, treatment, or disposal facilities or systems.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.023. Lease of Facilities

A district may lease to or from any person for such term and on such conditions as may be considered desirable any waste collection, transportation, treatment, or disposal facilities or systems.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.024. Operating Agreements

A district may make operating agreements with any person for such terms and on such conditions as may be considered desirable for the operation of any waste collection, transportation, treatment, or disposal facilities or systems of any person by the district.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.025. Waste Disposal Contracts by District

A district may make contracts with any person, including any public agency located inside or outside the boundaries of the district, under which the district will collect, transport, treat, or dispose of waste for the person.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.026. Contracts by River Authority

Each river authority may make contracts authorized by this chapter with any person, including any public agency situated wholly or partly inside its boundaries and any public agency situated wholly or partly inside the river basin and any public agency situated wholly or partly inside the coastal basins adjoining its boundaries, but a river authority may not make contracts to serve a public agency situated wholly inside the boundaries of another river authority or to serve facilities of a person situated wholly within the boundaries of another river authority, except with the consent of the other river authority.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.027. Contract With Public Agency

A public agency may make contracts with a district under which the district will make a disposal system available to the public agency and will furnish waste collection, transportation, treatment, and disposal services to the public agency, group of public agencies, or other persons through the district's disposal system.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.028. Contract Provisions

(a) The contract may provide for:

(1) duration of the contract for a specified period or until issued and unissued bonds and refunding bonds of the district are paid;

(2) assuring equitable treatment of parties who contract with the district for waste collection, transportation, treatment, and disposal services from the same disposal system;

(3) requiring the public agency to regulate the quality and strength of waste to be handled by the disposal system;

(4) sale or lease to or use by a district of all or part of a disposal system owned or to be acquired by the public agency;

(5) the district operating all or part of a disposal system owned or to be acquired by the public agency; and

(6) other terms the district or the governing body of the public agency consider appropriate or necessary.

(b) The contract shall specify the method for determining the amounts to be paid by the public agency to the district.

(c) A contract made by a city may provide that the district shall have the right to use the streets, alleys, and public ways and places inside the city during the term of the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.029. Continued Use of District Facilities

After amortization of the district's investment in the disposal system, the public agency is entitled to continued performance of the service during the useful life of the disposal system, on payment of reasonable charges reduced to take into consideration the amortization.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.030. Source of Contract Payments

(a) A public agency may pay for the waste collection, transportation, treatment, and disposal services with income from its waterworks system, sanitary sewer system, or both systems, or its combined water and sanitary sewer system, as prescribed by the contract. In the alternative, a joint board defined as a public agency in Section 30.003, Subdivision (3), may pay for these services from any revenue or other funds within its control specified in the contract if the city councils of the cities which created the joint board approve, by ordinance, the contract between the joint board and the district. These payments constitute an operating expense of each system whose revenue is so used.

(b) The obligation of contract payments on the income of the public agency's water system is subordinate to the obligation imposed by any bonds that are payable solely from the water system net revenue and that are outstanding at the time the contract is made, unless the ordinance or resolution authorizing the bonds expressly reserved the right to give the contract payments a priority over the bond requirements.

(c) If a public agency having taxing power holds an election substantially according to the applicable provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ relating to the issuance of bonds by cities and it is determined that the public agency is authorized to levy an ad valorem tax to make all or part of the payments under a contract with a district, then the contract is an obligation against the taxing power of the public agency to the extent authorized, and payments under the contract may be payable from and constitute solely an obligation against the taxing powers of the city or may be payable both from taxes and from revenue prescribed in the contract. Otherwise, neither the district nor the holders of the district's bonds are entitled to demand payment of the public agency's obligation out of any tax revenue.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

¹ Civil Statutes, art. 701 et seq.

§ 30.031. Rates

(a) When all or part of the payments under a contract are to be made from revenue of the waterworks system, sanitary sewer system, both systems, or a combination of both systems, the public

agency shall establish, maintain, and periodically adjust the rates charged for services of the systems, so that the revenue, along with any taxes levied in support of the indebtedness, will be sufficient to pay:

- (1) the expenses of operating and maintaining the systems;
- (2) the obligations to the district under the contract; and
- (3) the obligations of bonds that are secured by revenue of the systems.

(b) The contract may require the use of consulting engineers and financial experts to advise the public agency on the need for adjusting rates.

(c) Notwithstanding any provision of this chapter or any other law to the contrary, a district may use the proceeds of bonds issued for the purpose of constructing a waste disposal system or systems, and payable wholly or in part from ad valorem taxes, for the purchase of capacity in, or a right to have the wastes of the district treated in, a waste collection, treatment, or disposal system and facilities owned or to be owned exclusively or in part by another public agency, and a district may issue bonds payable wholly or in part from ad valorem taxes specifically for such purpose if a majority of the resident electors of the district have authorized the governing body of the district to issue bonds for that purpose or for the purpose of constructing a waste disposal system or systems. The bonds shall be issued in accordance with the provisions of, and shall be subject to the same terms and conditions of, the laws authorizing the district to issue bonds for the purpose of constructing waste collection, treatment, and disposal systems, except as otherwise provided in this subsection.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.032. Service to More Than One Public Agency

A contract or group of contracts may provide for the district to render services concurrently to more than one person through constructing and operating a disposal system and may provide that the cost of these services be allocated among the persons as provided in the contract or group of contracts.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.033. Property Acquired by Condemnation or Otherwise

(a) To accomplish the purposes of this chapter, a district may acquire by purchase, lease, gift, or in any other manner all or any interest in property inside or outside the boundaries of the district and may own, maintain, use, and operate it.

(b) To accomplish the purposes of the chapter, a district may exercise the power of eminent domain to acquire all or any interest in property inside or outside the boundaries of the district. The power

shall be exercised according to the laws applicable or available to the district.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.034. Cost of Relocating, Altering, Etc.

If a district makes necessary the relocating, raising, rerouting, changing the grade of, or altering the construction of any highway, railroad, electric transmission line, pipeline, or telephone or telegraph properties or facilities in the exercise of powers granted under this chapter, the district shall pay all of the actual cost of the relocating, raising, rerouting, changing in grade, or altering of construction and shall pay all of the actual cost of providing comparable replacement of facilities without enhancement, less the net salvage value of the facilities.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.035. Elections

No election is required for the exercise of any power under this chapter except for the tax levy as provided by Section 30.030(c) of this code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 30.036 to 30.050 reserved for expansion]

SUBCHAPTER C. DISTRICT REVENUE BONDS

§ 30.051. Issuance of Bonds

In order to acquire, construct, improve, enlarge, extend, or repair disposal systems, the district may issue bonds secured by a pledge of all or part of the revenue from any contract entered into under this chapter and other income of the district.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.052. Form, Denomination, Interest Rate

The governing body of the district shall prescribe the form, denomination, and rate of interest for the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.053. Refunding Bonds

A district may refund any bonds issued under this chapter on the terms and conditions and at the rate of interest the governing body prescribes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.054. Sale or Exchange of Bonds

A district may sell bonds issued under this chapter at public or private sale at the price or prices and on the terms determined by the governing body, or it may exchange the bonds for property or any

interest in property of any kind considered necessary or convenient to the purposes authorized in this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.055. Interim Bonds

Pending the issuance of definitive bonds, a district may issue negotiable interim bonds or obligations eligible for exchange or substitution by use of definitive bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.056. Attorney General's Examination

(a) After issuance of the bonds is authorized, the bonds and the record relating to their issuance may be submitted to the attorney general for examination.

(b) When the bonds recite that they are secured by a pledge of the proceeds from a contract between the district and a public agency, a copy of the contract and the proceedings of the public agency authorizing the contract may also be submitted to the attorney general.

(c) If the attorney general finds that the bonds are authorized and that the contract is made in accordance with the constitution and laws of this state, he shall approve the bonds and the contract.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.057. Registration by Comptroller

After the bonds have been approved by the attorney general, they shall be registered by the state comptroller.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.058. Validation Suit

(a) Instead of or in addition to obtaining the approval of the attorney general, the district may have the bonds validated by suit in the district court as provided in Chapter 316, Acts of the 56th Legislature, Regular Session, 1959 (Article 717m, Vernon's Texas Civil Statutes).

(b) The governing body of the district may wait until after termination of the validation suit to fix the interest rate and sale price of the bonds.

(c) If the proposed bonds recite that they are secured by the proceeds of a contract between the district and a public agency, the petition shall so allege, and the notice of the suit shall mention this allegation and shall specify the public agency's funds or revenues from which the contract payments are to be made.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.059. Bonds Incontestable

After the bonds are approved by the attorney general and registered with the comptroller, the bonds and the contract are incontestable.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.060. Negotiable Instruments

Bonds issued under this subchapter are negotiable instruments.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.061. Investment Securities Under Uniform Commercial Code

Bonds issued under this subchapter are investment securities governed by Chapter 8, Uniform Commercial Code.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.062. Bonds as Authorized Investments

Bonds issued under this chapter are legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, and trustees, and for the sinking funds of cities, towns, villages, school districts, and other political corporations or subdivisions of the state.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.063. Security for Deposits

The bonds are eligible to secure deposits of any public funds of the state or any political subdivision of the state and are lawful and sufficient security for the deposits to the extent of their value when accompanied by unmatured coupons attached to the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.064. Funds Set Aside From Bond Proceeds

The district may set aside out of the proceeds from the sale of bonds:

- (1) interest to accrue on the bonds and administrative expenses to the estimated date when the disposal system will become revenue producing; and
- (2) reserve funds created by the resolution authorizing the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.065. Investment of Proceeds

Pending their use, proceeds from the sale of bonds may be invested in securities or time deposits as specified in the resolution authorizing the issuance of the bonds or the trust indenture securing the bonds. The earnings on these investments shall

be applied as provided in the resolution or trust indenture.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.066. Rates and Charges

While any bonds are outstanding, the governing body of the district shall fix, maintain, and collect for services furnished or made available by the disposal system rates and charges adequate to:

- (1) pay maintenance and operating costs of and expenses allocable to the disposal system;
- (2) pay the principal of and interest on the bonds; and
- (3) provide and maintain the funds created by the resolution authorizing the bonds.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

[Sections 30.067 to 30.100 reserved for expansion]

SUBCHAPTER D. RIVER AUTHORITY
PLANNING

§ 30.101. Authorization of Regional Plans

Each river authority may prepare regional plans for water quality management, control, and abatement of pollution in any segment of its river basin and adjoining coastal basins which:

- (1) are consistent with any applicable water quality standards established under current law within the river basin;
- (2) recommend disposal systems which will provide the most effective and economical means of collection, storage, treatment, and purification of waste, and means to encourage rural, municipal, and industrial use of the works and systems; and
- (3) recommend maintenance and improvement of water quality standards within the river basin and methods of adequately financing the facilities necessary to implement the plan.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.102. Planning in Related Fields

River authorities may conduct planning in related or affected fields reasonably necessary to give meaning to the water quality management and pollution control planning carried out under this subchapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.103. Joint Planning

(a) River authorities may join in the performance of planning functions with any district or public agency and enter into planning agreements for the term and on the conditions considered desirable to provide coordinated planning on a basin-wide scale, including adjacent coastal basins.

(b) River authorities may provide for river basin planning committees as entities with powers, responsibilities, functions, and duties conferred by mutual agreement.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.104. Coordination With Other Planning Agencies

A river authority performing planning functions under this subchapter shall coordinate its efforts and cooperate with other public planning agencies having significant planning interests in any segment of the river basin in or for which the planning is being conducted by the river authority.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.105. Financial Assistance

River authorities may make applications and enter into contracts for financial assistance in comprehensive planning which are appropriate under Section 3(c) of the Federal Water Pollution Control Act, as amended under 33 U.S.C. Section 1926 et seq., under 40 U.S.C. Section 461 et seq., and under any other relevant statutes.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

§ 30.106. Supervision by Texas Department of Water Resources

The Texas Department of Water Resources is authorized to exercise continuing supervision on behalf of the state of comprehensive plans prepared under this chapter.

[Amended by Acts 1977, 65th Leg., p. 2207, ch. 870, § 1, eff. Sept. 1, 1977.]

TITLE 3. RIVER COMPACTS

CHAPTER 41. RIO GRANDE COMPACT

Sec.	
41.001.	Ratification.
41.002.	Original Copy.
41.003.	Commissioner.
41.0031.	Application of Sunset Act.
41.004.	Term of Office.
41.005.	Oath.
41.006.	Compensation; Expenses.
41.007.	Employees; Administrative Expenses.
41.008.	Powers and Duties.
41.009.	Text of Compact.

§ 41.001. Ratification

The Rio Grande Compact, the text of which is set out in Section 41.009 of this code, was ratified by the legislature of this state in Chapter 3, page 531, Special Laws, Acts of the 46th Legislature, 1939, after having been signed at Santa Fe, New Mexico, on March 18, 1938, by M. C. Hinderlider, commissioner for the State of Colorado, Thos. M. McClure, commissioner for the State of New Mexico, and

Frank B. Clayton, commissioner for the State of Texas, and approved by S. O. Harper, commissioner representing the United States.

[Acts 1971, 62nd Leg., p. 237, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Acts 1971, 62nd Leg., p. 237, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article XII of the compact.

[Acts 1971, 62nd Leg., p. 237, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.0031. Application of Sunset Act

The office of Rio Grande Compact Commissioner for Texas is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.093, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 41.004. Term of Office

The commissioner holds office for a term of six (6) years and until his successor is appointed and has qualified.

[Acts 1971, 62nd Leg., p. 237, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2504, ch. 823, § 1, eff. June 8, 1971.]

§ 41.005. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner.

[Acts 1971, 62nd Leg., p. 237, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.006. Compensation; Expenses

The commissioner is entitled to compensation as provided by legislative appropriation. On submission of detailed, sworn accounts, he is entitled to reimbursement for actual expenses incurred while traveling in the discharge of his duties.

[Acts 1971, 62nd Leg., p. 237, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.007. Employees; Administrative Expenses

The commissioner, in conjunction with the other members of the commission and as authorized by legislative appropriation, may employ engineering and clerical personnel and may incur necessary office expenses and other expenses incident to the

proper performance of his duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

[Acts 1971, 62nd Leg., p. 238, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.008. Powers and Duties

The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact.

[Acts 1971, 62nd Leg., p. 238, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 41.009. Text of Compact

The Rio Grande Compact reads as follows:

RIO GRANDE COMPACT

The State of Colorado, the State of New Mexico, and the State of Texas, desiring to remove all causes of present and future controversy among these States and between citizens of one of these States and citizens of another State with respect to the use of the waters of the Rio Grande above Fort Quitman, Texas, and being moved by considerations of interstate comity, and for the purpose of effecting an equitable apportionment of such waters, have resolved to conclude a Compact for the attainment of these purposes, and to that end, through their respective Governors, have named as their respective Commissioners:

For the State of Colorado—M. C. Hinderlider

For the State of New Mexico—Thomas M. McClure

For the State of Texas—Frank B. Clayton

who, after negotiations participated in by S. O. Harper, appointed by the President as the representative of the United States of America, have agreed upon the following Articles, to wit:

ARTICLE I

(a) The State of Colorado, the State of New Mexico, the State of Texas, and the United States of America, are hereinafter designated "Colorado," "New Mexico," "Texas," and the "United States," respectively.

(b) "The Commission" means the agency created by this Compact for the administration thereof.

(c) The term "Rio Grande Basin" means all of the territory drained by the Rio Grande and its tributaries in Colorado, in New Mexico, and in Texas above Fort Quitman, including the Closed Basin in Colorado.

(d) The "Closed Basin" means that part of the Rio Grande Basin in Colorado where the streams drain into the San Luis Lakes and adjacent territory, and do not normally contribute to the flow of the Rio Grande.

(e) The term "tributary" means any stream which naturally contributes to the flow of the Rio Grande.

(f) "Transmountain Diversion" is water imported into the drainage basin of the Rio Grande from any stream system outside of the Rio Grande Basin, exclusive of the Closed Basin.

(g) "Annual Debits" are the amounts by which actual deliveries in any calendar year fall below scheduled deliveries.

(h) "Annual Credits" are the amounts by which actual deliveries in any calendar year exceed scheduled deliveries.

(i) "Accrued Debits" are the amounts by which the sum of all annual debits exceeds the sum of all annual credits over any common period of time.

(j) "Accrued Credits" are the amounts by which the sum of all annual credits exceeds the sum of all annual debits over any common period of time.

(k) "Project Storage" is the combined capacity of Elephant Butte Reservoir and all other reservoirs actually available for the storage of usable water below Elephant Butte and above the first diversion to lands of the Rio Grande Project, but not more than a total of two million, six hundred and thirty-eight thousand, eight hundred and sixty (2,638,860) acre-feet.

(l) "Usable Water" is all water, exclusive of credit water, which is in project storage and which is available for release in accordance with irrigation demands, including deliveries to Mexico.

(m) "Credit Water" is that amount of water in project storage which is equal to the accrued credit of Colorado or New Mexico or both.

(n) "Unfilled Capacity" is the difference between the total physical capacity of project storage and the amount of usable water then in storage.

(o) "Actual Release" is the amount of usable water released in any calendar year from the lowest reservoir comprising project storage.

(p) "Actual Spill" is all water which is actually spilled from Elephant Butte Reservoir, or is released therefrom for flood control, in excess of the current demand on project storage and which does not become usable water by storage in another reservoir; provided, that actual spill of usable water cannot occur until all credit water shall have been spilled.

(q) "Hypothetical Spill" is the time in any year at which usable water would have spilled from project storage if seven hundred and ninety thousand (790,000) acre-feet had been released therefrom at rates proportional to the actual release in every year from the starting date to the end of the year in which hypothetical spill occurs; in computing hypothetical spill the initial condition shall be the amount of usable water in project storage at the beginning of the calendar year following the effective date of this Compact, and thereafter the initial condition

shall be the amount of usable water in project storage at the beginning of the calendar year following each actual spill.

ARTICLE II

The Commission shall cause to be maintained and operated a stream gaging station equipped with an automatic water stage recorder at each of the following points, to wit:

- (a) On the Rio Grande near Del Norte above the principal points of diversion to the San Luis Valley;
- (b) On the Conejos River near Mogote;
- (c) On the Los Pinos River near Ortiz;
- (d) On the San Antonio River at Ortiz;
- (e) On the Conejos River at its mouths near Los Sauces;
- (f) On the Rio Grande near Lobatos;
- (g) On the Rio Chama below El Vado Reservoir;
- (h) On the Rio Grande at Otowi Bridge near San Ildefonso;
- (i) On the Rio Grande near San Acacia;
- (j) On the Rio Grande at San Marcial;
- (k) On the Rio Grande below Elephant Butte Reservoir;
- (l) On the Rio Grande below Caballo Reservoir.

Similar gaging stations shall be maintained and operated below any other reservoir constructed after 1929, and at such other points as may be necessary for the securing of records required for the carrying out of the Compact; and automatic water stage recorders shall be maintained and operated on each of the reservoirs mentioned, and on all others constructed after 1929.

Such gaging stations shall be equipped, maintained, and operated by the Commission directly or in cooperation with an appropriate Federal or State agency, and the equipment, method and frequency of measurement at such stations shall be such as to produce reliable records at all times.

ARTICLE III

The obligation of Colorado to deliver water in the Rio Grande at the Colorado-New Mexico State Line, measured at or near Lobatos, in each calendar year, shall be ten thousand (10,000) acre-feet less than the sum of those quantities set forth in the two (2) following tabulations of relationship, which correspond to the quantities at the upper index-stations:

Discharge of Conejos River

Quantities in thousands of acre-feet	
Conejos Index Supply (1)	Conejos River at Mouths (2)
100	0
150	20
200	45
250	75

Conejos Index Supply (1)	Conejos River at Mouths (2)
300	109
350	147
400	188
450	232
500	278
550	326
600	376
650	426
700	476

Intermediate quantities shall be computed by proportional parts.

(1) Conejos Index Supply is the natural flow of Conejos River at the U.S.G.S. gaging station near Mogote during the calendar year, plus the natural flow of Los Pinos River at the U.S.G.S. gaging station near Ortiz and the natural flow of San Antonio River at the U.S.G.S. gaging station at Ortiz, both during the months of April to October, inclusive.

(2) Conejos River at mouths is the combined discharge of branches of this River at the U.S.G.S. gaging stations near Los Sauces during the calendar year.

Discharge of Rio Grande exclusive of Conejos River	
Quantities in thousands of acre-feet	
Rio Grande at Del Norte (3)	Rio Grande at Lobatos less Conejos at Mouths (4)
200	60
250	65
300	75
350	86
400	98
450	112
500	127
550	144
600	162
650	182
700	204
750	229
800	257
850	292
900	335
950	380
1,000	430
1,100	540
1,200	640
1,300	740
1,400	840

Intermediate quantities shall be computed by proportional parts.

(3) Rio Grande at Del Norte is the recorded flow of the Rio Grande at the U.S.G.S. gaging station near Del Norte during the calendar year (measured

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above all principal points of diversion to San Luis Valley) corrected for the operation of reservoirs constructed after 1937.

(4) Rio Grande at Lobatos less Conejos at mouths is the total flow of the Rio Grande at the U.S.G.S. gaging station near Lobatos, less the discharge of Conejos River at its mouths, during the calendar year.

The application of these schedules shall be subject to the provisions hereinafter set forth and appropriate adjustments shall be made for (a) any change in location of gaging station; (b) any new or increased depletion of the runoff above inflow index gaging stations; and (c) any transmountain diversions into the drainage basin of the Rio Grande above Lobatos.

In event any works are constructed after 1937 for the purpose of delivering water into the Rio Grande from the Closed Basin, Colorado shall not be credited with the amount of such water delivered, unless the proportion of sodium ions shall be less than forty-five (45) percent of the total positive ions in that water when the total dissolved solids in such water exceeds three hundred and fifty (350) parts per million.

ARTICLE IV

The obligation of New Mexico to deliver water in the Rio Grande at San Marcial, during each calendar year, exclusive of the months of July, August, and September, shall be that quantity set forth in the following tabulation of relationship, which corresponds to the quantity at the upper index station:

Discharge of Rio Grande at Otowi Bridge and at San Marcial exclusive of July, August, and September

Quantities in thousands of acre-feet	
Otowi Index Supply (5)	San Marcial Index Supply (6)
100	0
200	65
300	141
400	219
500	300
600	383
700	469
800	557
900	648
1000	742
1100	839
1200	939
1300	1042
1400	1148
1500	1257
1600	1370
1700	1489
1800	1608
1900	1730

Otowi Index Supply (5)	San Marcial Index Supply (6)
2000	1856
2100	1985
2200	2117
2300	2253

Intermediate quantities shall be computed by proportional parts.

(5) The Otowi Index Supply is the recorded flow of the Rio Grande at the U.S.G.S. gaging station at Otowi Bridge near San Ildefonso (formerly station near Buckman) during the calendar year, exclusive of the flow during the months of July, August, and September, corrected for the operation of reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and Otowi Bridge.

(6) San Marcial Index Supply is the recorded flow of the Rio Grande at the gaging station at San Marcial during the calendar year exclusive of the flow during the months of July, August, and September.

The application of this schedule shall be subject to the provisions hereinafter set forth and appropriate adjustments shall be made for (a) any change in location of gaging stations; (b) depletion after 1929 in New Mexico at any time of the year of the natural runoff at Otowi Bridge; (c) depletion of the runoff during July, August, and September of tributaries between Otowi Bridge and San Marcial, by works constructed after 1937; and (d) any transmountain diversions into the Rio Grande between Lobatos and San Marcial.

Concurrent records shall be kept of the flow of the Rio Grande at San Marcial, near San Acacia, and of the release from Elephant Butte Reservoir, to the end that the records at these three (3) stations may be correlated.

ARTICLE V

If at any time it should be the unanimous finding and determination of the Commission that because of changed physical conditions, or for any other reason, reliable records are not obtainable, or cannot be obtained, at any of the stream gaging stations herein referred to, such stations may, with the unanimous approval of the Commission, be abandoned, and with such approval another station, or other stations, shall be established and new measurements shall be substituted which, in the unanimous opinion of the Commission, will result in substantially the same results, so far as the rights and obligations to deliver water are concerned, as would have existed if such substitution of stations and measurements had not been so made.

ARTICLE VI

Commencing with the year following the effective date of this Compact, all credits and debits of Colorado and New Mexico shall be computed for each calendar year; provided, that in a year of actual

spill no annual credits nor annual debits shall be computed for that year.

In the case of Colorado, no annual debit nor accrued debit shall exceed one hundred thousand (100,000) acre-feet, except as either or both may be caused by holdover storage water in reservoirs constructed after 1937 in the drainage basin of the Rio Grande above Lobatos. Within the physical limitations of storage capacity in such reservoirs, Colorado shall retain water in storage at all times to the extent of its accrued debit.

In the case of New Mexico, the accrued debit shall not exceed two hundred thousand (200,000) acre-feet at any time, except as such debit may be caused by holdover storage of water in reservoirs constructed after 1929 in the drainage basin of the Rio Grande between Lobatos and San Marcial. Within the physical limitations of storage capacity in such reservoirs, New Mexico shall retain water in storage at all times to the extent of its accrued debit. In computing the magnitude of accrued credits or debits, New Mexico shall not be charged with any greater debit in any one year than the sum of one hundred and fifty thousand (150,000) acre-feet and all gains in the quantity of water in storage in such year.

The Commission by unanimous action may authorize the release from storage of any amount of water which is then being held in storage by reason of accrued debits of Colorado or New Mexico; provided, that such water shall be replaced at the first opportunity thereafter.

In computing the amount of accrued credits and accrued debits of Colorado or New Mexico, any annual credits in excess of one hundred and fifty thousand (150,000) acre-feet shall be taken as equal to that amount.

In any year in which actual spill occurs, the accrued credits of Colorado or New Mexico, or both, at the beginning of the year shall be reduced in proportion to their respective credits by the amount of such actual spill; provided, that the amount of actual spill shall be deemed to be increased by the aggregate gain in the amount of water in storage, prior to the time of spill, in reservoirs above San Marcial constructed after 1929; provided, further, that if the Commissioners for the States having accrued credits authorize the release of part, or all, of such credits in advance of spill, the amount so released shall be deemed to constitute actual spill.

In any year in which there is actual spill of usable water, or at the time of hypothetical spill thereof, all accrued debits of Colorado or New Mexico, or both, at the beginning of the year shall be cancelled.

In any year in which the aggregate of accrued debits of Colorado and New Mexico exceeds the minimum unfilled capacity of project storage, such debits shall be reduced proportionally to an aggregate amount equal to such minimum unfilled capacity.

To the extent that accrued credits are impounded in reservoirs between San Marcial and Courchesne, and to the extent that accrued debits are impounded in reservoirs above San Marcial, such credits and debits shall be reduced annually to compensate for evaporation losses in the proportion that such credits or debits bore to the total amount of water in such reservoirs during the year.

ARTICLE VII

Neither Colorado nor New Mexico shall increase the amount of water in storage in reservoirs constructed after 1929 whenever there is less than four hundred thousand (400,000) acre-feet of usable water in project storage; provided, that if the actual releases of usable water from the beginning of the calendar year following the effective date of this Compact, or from the beginning of the calendar year following actual spill, have aggregated more than an average of seven hundred and ninety thousand (790,000) acre-feet per annum, the time at which such minimum stage is reached shall be adjusted to compensate for the difference between the total actual release and releases at such average rate; provided, further, that Colorado or New Mexico, or both, may relinquish accrued credits at any time, and Texas may accept such relinquished water, and in such event the State or States so relinquishing shall be entitled to store water in the amount of the water so relinquished.

ARTICLE VIII

During the month of January of any year the Commissioner for Texas may demand of Colorado and New Mexico, and the Commissioner for New Mexico may demand of Colorado, the release of water from storage reservoirs constructed after 1929 to the amount of the accrued debits of Colorado and New Mexico, respectively, and such releases shall be made by each at the greatest rate practicable under the conditions then prevailing, and in proportion to the total debit of each, and in amounts, limited by their accrued debits, sufficient to bring the quantity of usable water in project storage to six hundred thousand (600,000) acre-feet by March 1st and to maintain this quantity in storage until April 30th, to the end that a normal release of seven hundred and ninety thousand (790,000) acre-feet may be made from project storage in that year.

ARTICLE IX

Colorado agrees with New Mexico that in event the United States or the State of New Mexico decides to construct the necessary works for diverting the waters of the San Juan River, or any of its tributaries, into the Rio Grande, Colorado hereby consents to the construction of said works and the diversion of waters from the San Juan River, or the tributaries thereof, into the Rio Grande in New Mexico, provided the present and prospective uses of water in Colorado by other diversions from the San Juan River, or its tributaries, are protected.

ARTICLE X

In the event water from another drainage basin shall be imported into the Rio Grande Basin by the United States or Colorado or New Mexico, or any of them jointly, the State having the right to the use of such water shall be given proper credit therefor in the application of the schedules.

ARTICLE XI

New Mexico and Texas agree that upon the effective date of this Compact all controversies between said States relative to the quantity or quality of the water of the Rio Grande are composed and settled; however, nothing herein shall be interpreted to prevent recourse by a signatory State to the Supreme Court of the United States for redress should the character or quality of the water, at the point of delivery, be changed hereafter by one signatory State to the injury of another. Nothing herein shall be construed as an admission by any signatory State that the use of water for irrigation causes increase of salinity for which the user is responsible in law.

ARTICLE XII

To administer the provisions of this Compact there shall be constituted a Commission composed of one representative from each State, to be known as the Rio Grande Compact Commission. The State Engineer of Colorado shall be ex-officio the Rio Grande Compact Commissioner for Colorado. The State Engineer of New Mexico shall be ex-officio the Rio Grande Compact Commissioner for New Mexico. The Rio Grande Compact Commissioner for Texas shall be appointed by the Governor of Texas. The President of the United States shall be requested to designate a representative of the United States to sit with such Commission, and such Representative of the United States, if so designated by the President, shall act as Chairman of the Commission without vote.

The salaries and personal expenses of the Rio Grande Compact Commissioners for the three (3) States shall be paid by their respective States, and all other expenses incident to the administration of this Compact, not borne by the United States, shall be borne equally by the three (3) States.

In addition to the powers and duties hereinbefore specifically conferred upon such Commission and the Members thereof, the jurisdiction of such Commission shall extend only to the collection, correlation, and presentation of factual data and the maintenance of records having a bearing upon the administration of this Compact, and, by unanimous action, to the making of recommendations to the respective States upon matters connected with the administration of this Compact. In connection therewith, the Commission may employ such engineering and clerical aid as may be reasonably necessary within the limit of funds provided for that

purpose by the respective States. Annual reports compiled for each calendar year shall be made by the Commission and transmitted to the Governors of the signatory States on or before March 1st following the year covered by the report. The Commission may, by unanimous action, adopt rules and regulations consistent with the provisions of this Compact to govern their proceedings.

The findings of the Commission shall not be conclusive in any Court or tribunal which may be called upon to interpret or enforce this Compact.

ARTICLE XIII

At the expiration of every five-year period after the effective date of this Compact, the Commission may, by unanimous consent, review any provisions hereof which are not substantive in character and which do not affect the basic principles upon which the Compact is founded, and shall meet for the consideration of such questions on the request of any member of the Commission; provided, however, that the provisions hereof shall remain in full force and effect until changed and amended within the intent of the Compact by unanimous action of the Commissioners, and until any changes in this Compact are ratified by the Legislatures of the respective States and consented to by the Congress, in the same manner as this Compact is required to be ratified to become effective.

ARTICLE XIV

The schedules herein contained and the quantities of water herein allocated shall never be increased nor diminished by reason of any increase or diminution in the delivery or loss of water to Mexico.

ARTICLE XV

The physical and other conditions characteristic of the Rio Grande and peculiar to the territory drained and served thereby, and to the development thereof, have actuated this Compact and none of the signatory States admits that any provisions herein contained establishes any general principle or precedent applicable to other interstate streams.

ARTICLE XVI

Nothing in this Compact shall be construed as affecting the obligations of the United States of America to Mexico under existing treaties, or to the Indian Tribes, or as impairing the Rights of the Indian Tribes.

ARTICLE XVII

This Compact shall become effective when ratified by the Legislatures of each of the signatory States and consented to by the Congress of the United States. Notice of ratification shall be given by the Governor of each State to the Governors of the other States and to the President of the United States, and the President of the United States is requested to give notice to the Governors of each of the signatory States of the consent of the Congress of the United States.

IN WITNESS WHEREOF, The Commissioners have signed this Compact in quadruplicate original, one of which shall be deposited in the archives of the Department of State of the United States of America and shall be deemed the authoritative original, and of which a duly certified copy shall be forwarded to the Governor of each of the signatory States.

Done at the City of Sante Fe, in the State of New Mexico, on the 18th day of March, in the year of our Lord, One Thousand Nine Hundred and Thirty-eight.

(Signed) M. C. Hinderlider

(Signed) Thomas M. McClure

(Signed) Frank B. Clayton

Approved:

(Signed) S. O. Harper

CHAPTER 42. PECOS RIVER COMPACT

- Sec.
- 42.001. Ratification.
- 42.002. Original Copy.
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§ 42.001. Ratification

The Pecos River Compact, the text of which is set out in Section 42.010 of this code, was ratified by the legislature of this state in Chapter 30, Acts of the 51st Legislature, Regular Session, 1949, after having been signed at Santa Fe, New Mexico, on December 3, 1948, by John H. Bliss, commissioner for the State of New Mexico, and Charles H. Miller, commissioner for the State of Texas, and approved by Berkeley Johnson, representing the United States.

[Acts 1971, 62nd Leg., p. 247, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Acts 1971, 62nd Leg., p. 247, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent

this state on the commission established by Article V of the compact.

[Acts 1971, 62nd Leg., p. 247, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.0031. Application of Sunset Act

The office of Pecos River Compact Commissioner for Texas is subject to the Texas Sunset Act,¹ and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.091, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 42.004. Term of Office

The commissioner holds office for a term of two years and until his successor is appointed and has qualified.

[Acts 1971, 62nd Leg., p. 247, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.005. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner.

[Acts 1971, 62nd Leg., p. 247, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.006. Compensation; Expenses

The commissioner is entitled to compensation as provided by legislative appropriation. He is entitled to reimbursement for actual expenses incurred while traveling in the discharge of his duties.

[Acts 1971, 62nd Leg., p. 247, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.007. Employees; Administrative Expenses

The commissioner may employ engineering, legal, and clerical personnel as necessary to protect the interest of the state and to carry out and enforce the terms of the compact. He may incur necessary office expenses and other expenses incident to the proper performance of his duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

[Acts 1971, 62nd Leg., p. 248, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.008. Powers and Duties

(a) The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact.

(b) The commissioner may meet and confer with the New Mexico commissioner at any place the commission considers proper.

[Acts 1971, 62nd Leg., p. 248, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.009. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs.

[Acts 1971, 62nd Leg., p. 248, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 42.010. Text of Compact

The Pecos River Compact reads as follows:

PECOS RIVER COMPACT
Entered Into by the States of
NEW MEXICO
and
TEXAS
Sante Fe, New Mexico
December 3, 1948

PECOS RIVER COMPACT

The State of New Mexico and the State of Texas, acting through their Commissioners, John H. Bliss for the State of New Mexico and Charles H. Miller for the State of Texas, after negotiations participated in by Berkeley Johnson, appointed by the President as the representative of the United States of America, have agreed respecting the uses, apportionment and deliveries of the water of the Pecos River as follows:

ARTICLE I

The major purposes of this Compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the states; to facilitate the construction of works for, (a) the salvage of water, (b) the more efficient use of water, and (c) the protection of life and property from floods.

ARTICLE II

As used in this Compact:

(a) The term "Pecos River" means the tributary of the Rio Grande which rises in north-central New Mexico and flows in a southerly direction through New Mexico and Texas and joins the Rio Grande near the town of Langtry, Texas, and includes all tributaries of said Pecos River.

(b) The term "Pecos River Basin" means all of the contributing drainage area of the Pecos River and its tributaries above its mouth near Langtry, Texas.

(c) "New Mexico" and "Texas" mean the State of New Mexico and the State of Texas, respectively; "United States" means the United States of America.

(d) The term "Commission" means the agency created by this Compact for the administration thereof.

(e) The term "deplete by man's activities" means to diminish the stream flow of the Pecos River at any given point as the result of beneficial consumptive uses of water within the Pecos River Basin above such point. For the purposes of this Compact it does not include the diminution of such flow by encroachment of salt cedars or other like growth, or by deterioration of the channel of the stream.

(f) The term "Report of the Engineering Advisory Committee" means that certain report of the Engineering Advisory Committee dated January, 1948, and all appendices thereto; including, basic data, processes, and analyses utilized in preparing that report, all of which were reviewed, approved, and adopted by the Commissioners signing this Compact at a meeting held in Santa Fe, New Mexico, on December 3, 1948, and which are included in the Minutes of that meeting.

(g) The term "1947 condition" means that situation in the Pecos River Basin as described and defined in the Report of the Engineering Advisory Committee. In determining any question of fact hereafter arising as to such situation, reference shall be made to, and decisions shall be based on, such report.

(h) The term "water salvaged" means that quantity of water which may be recovered and made available for beneficial use and which quantity of water under the 1947 condition was non-beneficially consumed by natural processes.

(i) The term "unappropriated flood waters" means water originating in the Pecos River Basin above Red Bluff Dam in Texas, the impoundment of which will not deplete the water usable by the storage and diversion facilities existing in either state under the 1947 condition and which if not impounded will flow past Girvin, Texas.

ARTICLE III

(a) Except as stated in paragraph (f) of this Article, New Mexico shall not deplete by man's activities the flow of the Pecos River at the New Mexico-Texas state line below an amount which will give to Texas a quantity of water equivalent to that available to Texas under the 1947 condition.

(b) Except as to the unappropriated flood waters thereof, the apportionment of which is included in and provided for by paragraph (f) of this Article, the beneficial consumptive use of the waters of the Delaware River is hereby apportioned to Texas, and the quantity of such beneficial consumptive use shall be included in determining waters received under the provisions of paragraph (a) of this Article.

(c) The beneficial consumptive use of water salvaged in New Mexico through the construction and operation of a project or projects by the United States or by joint undertakings of Texas and New

Mexico, is hereby apportioned forty-three per cent (43%) to Texas and fifty-seven per cent (57%) to New Mexico.

(d) Except as to water salvaged, apportioned in paragraph (c) of this Article, the beneficial consumptive use of water which shall be non-beneficially consumed, and which is recovered, is hereby apportioned to New Mexico but not to have the effect of diminishing the quantity of water available to Texas under the 1947 condition.

(e) Any water salvaged in Texas is hereby apportioned to Texas.

(f) Beneficial consumptive use of unappropriated flood waters is hereby apportioned fifty per cent (50%) to Texas and fifty per cent (50%) to New Mexico.

ARTICLE IV

(a) New Mexico and Texas shall cooperate to support legislation for the authorization and construction of projects to eliminate non-beneficial consumption of water.

(b) New Mexico and Texas shall cooperate with agencies of the United States to devise and effectuate means of alleviating the salinity conditions of the Pecos River.

(c) New Mexico and Texas each may:

(i) Construct additional reservoir capacity to replace reservoir capacity made unusable by any cause.

(ii) Construct additional reservoir capacity for the utilization of water salvaged and unappropriated flood waters apportioned by this Compact to such state.

(iii) Construct additional reservoir capacity for the purpose of making more efficient use of water apportioned by this Compact to such state.

(d) Neither New Mexico nor Texas will oppose the construction of any facilities permitted by this Compact, and New Mexico and Texas will cooperate to obtain the construction of facilities that will be of joint benefit to the two states.

(e) The Commission may determine the conditions under which Texas may store water in works constructed in and operated by New Mexico.

(f) No reservoir shall be constructed and operated in New Mexico above Avalon Dam for the sole benefit of Texas unless the Commission shall so determine.

(g) New Mexico and Texas each has the right to construct and operate works for the purpose of preventing flood damage.

(h) All facilities shall be operated in such manner as to carry out the terms of this Compact.

ARTICLE V

(a) There is hereby created an interstate administrative agency to be known as the "Pecos River

Commission." The Commission shall be composed of one Commissioner representing each of the states of New Mexico and Texas, designated or appointed in accordance with the laws of each such state, and, if designated by the President, one Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the two states. On or before November 1 of each even numbered year the Commission shall adopt and transmit to the Governors of the two states and to the President a budget covering an estimate of its expenses for the following two years. The payment of the expenses of the Commission and of its employees shall not be subject to the audit and accounting procedures of either of the two states. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified independent public accountant and the report of the audit shall be included in, and become a part of, the annual report of the Commission.

(c) The Commission may appoint a secretary who, while so acting, shall not be an employee of either state. He shall serve for such term, receive such salary, and perform such duties as the Commission may direct. The Commission may employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact. In the hiring of employees the Commission shall not be bound by the civil service laws of either state.

(d) The Commission, so far as consistent with this Compact, shall have power to:

1. Adopt rules and regulations;
2. Locate, establish, construct, operate, maintain, and abandon water gaging stations, independently or in cooperation with appropriate governmental agencies;
3. Engage in studies of water supplies of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;
4. Collect, analyze, correlate, preserve and report on data as to the stream flows, storage, diversions, salvage, and use of the waters of the Pecos River and its tributaries, independently or in cooperation with appropriate governmental agencies;

5. Make findings as to any change in depletion by man's activities in New Mexico, and on the Delaware River in Texas;

6. Make findings as to the deliveries of water at the New Mexico-Texas state line;

7. Make findings as to the quantities of water salvaged and the amount thereof delivered at the New Mexico-Texas state line;

8. Make findings as to quantities of water non-beneficially consumed in New Mexico;

9. Make findings as to quantities of unappropriated flood waters;

10. Make findings as to the quantities of reservoir losses from reservoirs constructed in New Mexico which may be used for the benefit of both states, and as to the share thereof charged under Article VI hereof to each of the states;

11. Acquire and hold such personal and real property as may be necessary for the performance of its duties hereunder and to dispose of the same when no longer required;

12. Perform all functions required of it by this Compact and do all things necessary, proper or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies;

13. Make and transmit annually to the Governors of the signatory states and to the President of the United States on or before the last day of February of each year, a report covering the activities of the Commission for the preceding year.

(e) The Commission shall make available to the Governor of each of the signatory states any information within its possession at any time, and shall always provide free access to its records by the Governors of each of the States, or their representatives, or authorized representatives of the United States.

(f) Findings of fact made by the Commission shall not be conclusive in any court, or before any agency or tribunal, but shall constitute prima facie evidence of the facts found.

(g) The organization meeting of the Commission shall be held within four months from the effective date of this Compact.

ARTICLE VI

The following principles shall govern in regard to the apportionment made by Article III of this Compact:

(a) The Report of the Engineering Advisory Committee, supplemented by additional data hereafter accumulated, shall be used by the Commission in making administrative determinations.

(b) Unless otherwise determined by the Commission, depletions by man's activities, state-line flows, quantities of water salvaged, and quantities of unappropriated flood waters shall be determined on

the basis of three-year periods reckoned in continuing progressive series beginning with the first day of January next succeeding the ratification of this Compact.

(c) Unless and until a more feasible method is devised and adopted by the Commission the inflow-outflow method, as described in the Report of the Engineering Advisory Committee, shall be used to:

(i) Determine the effect on the state-line flow of any change in depletions by man's activities or otherwise, of the waters of the Pecos River in New Mexico.

(ii) Measure at or near the Avalon Dam in New Mexico the quantities of water salvaged.

(iii) Measure at or near the state line any water released from storage for the benefit of Texas as provided for in subparagraph (d) of this Article.

(iv) Measure the quantities of unappropriated flood waters apportioned to Texas which have not been stored and regulated by reservoirs in New Mexico.

(v) Measure any other quantities of water required to be measured under the terms of this Compact which are susceptible of being measured by the inflow-outflow method.

(d) If unappropriated flood waters apportioned to Texas are stored in facilities constructed in New Mexico, the following principles shall apply:

(i) In case of spill from a reservoir constructed in and operated by New Mexico, the water stored to the credit of Texas will be considered as the first water to spill.

(ii) In case of spill from a reservoir jointly constructed and operated, the water stored to the credit of either state shall not be affected.

(iii) Reservoir losses shall be charged to each state in proportion to the quantity of water belonging to that state in storage at the time the losses occur.

(iv) The water impounded to the credit of Texas shall be released by New Mexico on the demand of Texas.

(e) Water salvaged shall be measured at or near the Avalon Dam in New Mexico and to the quantity thereof shall be added a quantity equal to the quantity of salvaged water depleted by man's activities above Avalon Dam. The quantity of water salvaged that is apportioned to Texas shall be delivered by New Mexico at the New Mexico-Texas state line. The quantity of unappropriated flood waters impounded under paragraph (d) of this Article, when released shall be delivered by New Mexico at the New Mexico-Texas state line in the quantity released less channel losses. The unappropriated flood waters apportioned to Texas by this Compact that are not impounded in reservoirs in New Mexico shall be measured and delivered at the New Mexico-Texas state line.

(f) Beneficial use shall be the basis, the measure, and the limit of the right to use water.

ARTICLE VII

In the event of importation of water by man's activities to the Pecos River Basin from any other river basin the state making the importation shall have the exclusive use of such imported water.

ARTICLE VIII

The provisions of this Compact shall not apply to, or interfere with, the right or power of either signatory state to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact.

ARTICLE IX

In maintaining the flows at the New Mexico-Texas state line required by this Compact, New Mexico shall in all instances apply the principle of prior appropriation within New Mexico.

ARTICLE X

The failure of either state to use the water, or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use, nor shall it constitute a forfeiture or abandonment of the right to such use.

ARTICLE XI

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States under the Treaty with the United Mexican States (Treaty Series 994);

(b) Affecting any rights or powers of the United States, its agencies or instrumentalities, in or to the waters of the Pecos River, or its capacity to acquire rights in and to the use of said waters;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any state or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any state or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(d) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any state to an extent other than the extent to which such laws would apply without regard to this Compact.

ARTICLE XII

The consumptive use of water by the United States or any of its agencies, instrumentalities or wards shall be charged as a use by the state in which the use is made; provided, that such consumptive use incident to the diversion, impounding,

or conveyance of water in one state for use in the other state shall be charged to such latter state.

ARTICLE XIII

This Compact shall not be construed as establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XIV

This Compact may be terminated at any time by appropriate action of the legislatures of both of the signatory states. In the event of such termination, all rights established under it shall continue unimpaired.

ARTICLE XV

This Compact shall become binding and obligatory when it shall have been ratified by the legislature of each State and approved by the Congress of the United States. Notice of ratification by the legislature of each State shall be given by the Governor of that State to the Governor of the other State and to the President of the United States, and the President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

In Witness Whereof, the Commissioners have executed three counterparts hereof each of which shall be and constitute an original, one of which shall be deposited in the archives of the Department of State of the United States, and one of which shall be forwarded to the Governor of each State.

Done at the City of Santa Fe, State of New Mexico, this 3rd day of December, 1948.

JOHN H. BLISS

Commissioner for the State of New Mexico

CHARLES H. MILLER

Commissioner for the State of Texas

APPROVED

BERKELEY JOHNSON

Representative of the United States of America

CHAPTER 43. CANADIAN RIVER COMPACT

Sec.

- 43.001. Ratification.
- 43.002. Original Copy.
- 43.003. Commissioner.
- 43.0031. Application of Sunset Act.
- 43.004. Expenses.
- 43.005. Powers and Duties.
- 43.006. Text of Compact.

§ 43.001. Ratification

The Canadian River Compact, the text of which is set out in Section 43.006 of this code, was ratified by the legislature of this state in Chapter 153, Acts of the 52nd Legislature, Regular Session, 1951, af-

ter having been signed at Santa Fe, New Mexico, on December 6, 1950, by John H. Bliss, commissioner for the State of New Mexico, E. V. Spence, commissioner for the State of Texas, and Clarence Burch, commissioner for the State of Oklahoma, and approved by Berkeley Johnson, representing the United States.

[Acts 1971, 62nd Leg., p. 255, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 43.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Acts 1971, 62nd Leg., p. 255, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 43.003. Commissioner

The governor shall appoint a commissioner to represent this state on the commission established by Article IX of the compact.

[Acts 1971, 62nd Leg., p. 255, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 43.0031. Application of Sunset Act

The office of Canadian River Compact Commissioner for Texas is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1844, ch. 735, § 2.090, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 43.004. Expenses

The commissioner is entitled to reimbursement for actual expenses incurred in the discharge of his duties.

[Acts 1971, 62nd Leg., p. 255, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 43.005. Powers and Duties

(a) The commissioner is responsible for administering the provisions of the compact, and he has all the powers and duties prescribed by the compact.

(b) The commissioner may meet and confer with the other commissioners at any place the commission considers proper.

[Acts 1971, 62nd Leg., p. 256, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 43.006. Text of Compact

The Canadian River Compact reads as follows:

CANADIAN RIVER COMPACT

The State of New Mexico, the State of Texas, and the State of Oklahoma, acting through their Commissioners, John H. Bliss for the State of New Mexico, E. V. Spence for the State of Texas, and Clarence Burch for the State of Oklahoma, after negotiations participated in by Berkeley Johnson,

appointed by the President as the representative of the United States of America, have agreed respecting Canadian River as follows:

ARTICLE I

The major purposes of this Compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the States; and to provide for the construction of additional works for the conservation of the waters of Canadian River.

ARTICLE II

As used in this Compact:

(a) The term "Canadian River" means the tributary of Arkansas River which rises in northeastern New Mexico and flows in an easterly direction through New Mexico, Texas and Oklahoma and includes North Canadian River and all other tributaries of said Canadian River.

(b) The term "North Canadian River" means that major tributary of Canadian River officially known as North Canadian River from its source to its junction with Canadian River and includes all tributaries of North Canadian River.

(c) The term "Commission" means the agency created by this Compact for the administration thereof.

(d) The term "conservation storage" means that portion of the capacity of reservoirs available for the storage of water for subsequent release for domestic, municipal, irrigation and industrial uses, or any of them, and it excludes any portion of the capacity of reservoirs allocated solely to flood control, power production and sediment control, or any of them.

ARTICLE III

All rights to any of the waters of Canadian River which have been perfected by beneficial use are hereby recognized and affirmed.

ARTICLE IV

(a) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River above Conchas Dam.

(b) New Mexico shall have free and unrestricted use of all waters originating in the drainage basin of Canadian River in New Mexico below Conchas Dam, provided that the amount of conservation storage in New Mexico available for impounding these waters which originate in the drainage basin of Canadian River below Conchas Dam shall be limited to an aggregate of two hundred thousand (200,000) acre-feet.

(c) The right of New Mexico to provide conservation storage in the drainage basin of North Canadian River shall be limited to the storage of such water as at the time may be unappropriated under the laws of New Mexico and of Oklahoma.

ARTICLE V

Texas shall have free and unrestricted use of all waters of Canadian River in Texas, subject to the limitations upon storage of water set forth below:

(a) The right of Texas to impound any of the waters of North Canadian River shall be limited to storage on tributaries of said River in Texas for municipal uses, for household and domestic uses, livestock watering, and the irrigation of lands which are cultivated solely for the purpose of providing food and feed for the householders and domestic livestock actually living or kept on the property.

(b) Until more than three hundred thousand (300,000) acre-feet of conservation storage shall be provided in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs in the drainage basin of Canadian River east of the 97th meridian, the right of Texas to retain water in conservation storage, exclusive of waters of North Canadian River, shall be limited to five hundred thousand (500,000) acre-feet; thereafter the right of Texas to impound and retain such waters in storage shall be limited to an aggregate quantity equal to two hundred thousand (200,000) acre-feet plus whatever amount of water shall be at the same time in conservation storage in reservoirs in the drainage basin of Canadian River in Oklahoma, exclusive of reservoirs in the drainage basin of North Canadian River and exclusive of reservoirs east of the 97th meridian; and for the purpose of determining the amount of water in conservation storage, the maximum quantity of water in storage following each flood or series of floods shall be used; provided, that the right of Texas to retain and use any quantity of water previously impounded shall not be reduced by any subsequent application of the provisions of this paragraph (b).

(c) Should Texas for any reason impound any amount of water greater than the aggregate quantity specified in paragraph (b) of this Article, such excess shall be retained in storage until under the provisions of said paragraph Texas shall become entitled to its use; provided, that, in event of spill from conservation storage, any such excess shall be reduced by the amount of such spill from the most easterly reservoir on Canadian River in Texas; provided further, that all such excess quantities in storage shall be reduced monthly to compensate for reservoir losses in proportion to the total amount of water in the reservoir or reservoirs in which such excess water is being held; and provided further that on demand by the Commissioner for Oklahoma the remainder of any such excess quantity of water in storage shall be released into the channel of Canadian River at the greatest rate practicable.

ARTICLE VI

Oklahoma shall have free and unrestricted use of all waters of Canadian River in Oklahoma.

ARTICLE VII

The Commission may permit New Mexico to impound more water than the amount set forth in Article IV and may permit Texas to impound more water than the amount set forth in Article V; provided, that no State shall thereby be deprived of water needed for beneficial use; provided further that each such permission shall be for a limited period not exceeding twelve (12) months; and provided further that no State or user of water within any State shall thereby acquire any right to the continued use of any such quantity of water so permitted to be impounded.

ARTICLE VIII

Each State shall furnish to the Commission at intervals designated by the Commission accurate records of the quantities of water stored in reservoirs pertinent to the administration of this Compact.

ARTICLE IX

(a) There is hereby created an interstate administrative agency to be known as the "Canadian River Commission." The Commission shall be composed of three (3) Commissioners, one (1) from each of the signatory States, designated or appointed in accordance with the laws of each such State, and if designated by the President an additional Commissioner representing the United States. The President is hereby requested to designate such a Commissioner. If so designated, the Commissioner representing the United States shall be the presiding officer of the Commission, but shall not have the right to vote in any of the deliberations of the Commission. All members of the Commission must be present to constitute a quorum. A unanimous vote of the Commissioners for the three (3) signatory States shall be necessary to all actions taken by the Commission.

(b) The salaries and personal expenses of each Commissioner shall be paid by the government which he represents. All other expenses which are incurred by the Commission incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the three (3) States and be paid by the Commission out of a revolving fund hereby created to be known as the "Canadian River Revolving Fund." Such fund shall be initiated and maintained by equal payments of each State into the fund in such amounts as will be necessary for administration of this Compact. Disbursements shall be made from said fund in such manner as may be authorized by the Commission. Said fund shall not be subject to the audit and accounting procedures of the States. However, all receipts and disbursements of funds handled by the Commission shall be audited by a qualified independent public accountant at regular intervals and the report of the audit shall be included in and become a part of the annual report of the Commission.

(c) The Commission may:

(1) Employ such engineering, legal, clerical, and other personnel as in its judgment may be necessary for the performance of its functions under this Compact;

(2) Enter into contracts with appropriate Federal agencies for the collection, correlation, and presentation of factual data, for the maintenance of records, and for the preparation of reports;

(3) Perform all functions required of it by this Compact and do all things necessary, proper, or convenient in the performance of its duties hereunder, independently or in cooperation with appropriate governmental agencies.

(d) The Commission shall:

(1) Cause to be established, maintained and operated such stream and other gaging stations and evaporation stations as may from time to time be necessary for proper administration of the Compact, independently or in cooperation with appropriate governmental agencies;

(2) Make and transmit to the Governors of the signatory States on or before the last day of March of each year, a report covering the activities of the Commission for the preceding year;

(3) Make available to the Governor of any signatory state, on his request, any information within its possession at any time, and shall always provide access to its records by the Governors of the States, or their representatives, or by authorized representatives of the United States.

ARTICLE X

Nothing in this Compact shall be construed as:

(a) Affecting the obligations of the United States to the Indian Tribes;

(b) Subjecting any property of the United States, its agencies or instrumentalities, to taxation by any State or subdivision thereof, or creating any obligation on the part of the United States, its agencies or instrumentalities, by reason of the acquisition, construction or operation of any property or works of whatever kind, to make any payment to any State or political subdivision thereof, state agency, municipality or entity whatsoever, in reimbursement for the loss of taxes;

(c) Subjecting any property of the United States, its agencies or instrumentalities, to the laws of any State to an extent other than the extent to which such laws would apply without regard to this Compact;

(d) Applying to, or interfering with, the right or power of any signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligations under this Compact;

(e) Establishing any general principle or precedent applicable to other interstate streams.

ARTICLE XI

This Compact shall become binding and obligatory when it shall have been ratified by the Legislature of each State and approved by the Congress of the United States. Notice of ratification by the Legislature of each State shall be given by the Governor of that State to the Governors of the other States and to the President of the United States. The President is hereby requested to give notice to the Governor of each State of approval by the Congress of the United States.

IN WITNESS WHEREOF, The Commissioners have executed four (4) counterparts hereof, each of which shall be and constitute an original, one (1) of which shall be deposited in the archives of the Department of State of the United States, and (1) of which shall be forwarded to the Governor of each State.

DONE at the City of Santa Fe, State of New Mexico, this 6th day of December, 1950.

/s/ John H. Bliss

 John H. Bliss
 Commissioner for the State of
 New Mexico

/s/ E. V. Spence

 E. V. Spence
 Commissioner for the State of
 Texas

/s/ Clarence Burch

 Clarence Burch
 Commissioner for the State of
 Oklahoma

APPROVED:

/s/ Berkeley Johnson

 Berkeley Johnson
 Representative of the United
 States of America

CHAPTER 44. SABINE RIVER COMPACT

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§ 44.001. Ratification

The Sabine River Compact, the text of which is set out in Section 44.010 of this code, was ratified by the legislature of this state in Chapter 63, Acts of the 53rd Legislature, Regular Session, 1953, af-

ter having been signed at Logansport, Louisiana, on January 26, 1953, by Roy T. Sessums, representative for the State of Louisiana, and Henry L. Woodworth and John W. Simmons, representatives for the State of Texas, and approved by Louis W. Prentiss, representative of the United States.

[Acts 1971, 62nd Leg., p. 260, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Acts 1971, 62nd Leg., p. 260, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.003. Members

The governor, with the advice and consent of the senate, shall appoint two members to represent this state on the administration established by Article VII of the compact.

[Acts 1971, 62nd Leg., p. 260, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.0031. Application of Sunset Act

The office of Sabine River Compact Administrator for Texas is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.094, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 44.004. Terms of Office

The members hold office for staggered terms of six years, with the term of one member expiring every three years. Each member holds office until his successor is appointed and has qualified.

[Acts 1971, 62nd Leg., p. 260, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.005. Oath

Each member shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as a member of the compact administration.

[Acts 1971, 62nd Leg., p. 261, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.006. Compensation; Expenses

Each member is entitled to compensation as provided by legislative appropriation and to reimbursement for actual expenses incurred in the discharge of his or her duties.

[Acts 1971, 62nd Leg., p. 261, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 5, ch. 4, § 1, eff. Feb. 22, 1979.]

§ 44.007. Employees; Administrative Expenses

The members may make investigations and appoint engineering, legal, and clerical employees as necessary to protect the interest of this state and to carry out and enforce the compact. They may incur necessary office expenses and other expenses incident to the proper performance of their duties and the proper administration of the compact.

[Acts 1971, 62nd Leg., p. 261, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.008. Powers and Duties

(a) The members are responsible for administering the provisions of the compact, and have all the powers and duties prescribed by the compact.

(b) The members may meet and confer with the Louisiana members at any place the administration considers proper.

[Acts 1971, 62nd Leg., p. 261, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.009. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the members in the performance of their duties and shall furnish them any available data and information they need.

[Acts 1971, 62nd Leg., p. 261, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 44.010. Text of Compact

The Sabine River Compact reads as follows:

SABINE RIVER COMPACT
Entered Into by the States of
LOUISIANA
and
TEXAS

Logansport, Louisiana,
January 26, 1953

SABINE RIVER COMPACT

The State of Texas and the State of Louisiana, parties signatory to this Compact (hereinafter referred to as "Texas" and "Louisiana", respectively, or individually as a "State", or collectively as the "States"), having resolved to conclude a compact with respect to the waters of the Sabine River, and having appointed representatives as follows:

For Texas: Henry L. Woodworth, Interstate Compact Commissioner for Texas; and John W. Simmons, President of the Sabine River Authority of Texas;

For Louisiana: Roy T. Sessums, Director of the Department of Public-Works of the State of Louisiana;

and consent to negotiate and enter into the said Compact having been granted by Act of the Congress of the United States approved November 1, 1951 (Public Law No. 252; 82nd Congress, First Session), and pursuant thereto the President having designated Louis W. Prentiss as the representative of the United States, the said representatives for Texas and Louisiana, after negotiations participated in by the representative of the United States, have for such Compact agreed upon Articles as herein-after set forth. The major purposes of this Compact are to provide for an equitable apportionment between the States of Louisiana and Texas of the waters of the Sabine River and its tributaries, thereby removing the causes of present and future controversy between the States over the conservation and utilization of said waters; to encourage the development, conservation and utilization of the water resources of the Sabine River and its tributaries; and to establish a basis for cooperative planning and action by the States for the construction, operation and maintenance of projects for water conservation and utilization purposes on that reach of the Sabine River touching both States, and for apportionment of the benefits therefrom.

ARTICLE I

As used in this Compact:

(a) The word "Stateline" means the point on the Sabine River where its waters in downstream flow first touch the States of both Louisiana and Texas.

(b) The term "waters of the Sabine River" means the waters either originating in the natural drainage basin of the Sabine River, or appearing as stream-flow in said River and its tributaries, from its headwater source down to the mouth of the River where it enters into Sabine Lake.

(c) The term "Stateline flow" means the flow of waters of the Sabine River as determined by the Logansport gauge located on the U. S. Highway 84, approximately four (4) river miles downstream from the Stateline. This flow, or the flow as determined by such substitute gauging station as may be established by the Administration, as hereinafter defined, pursuant to the provisions of Article VII of this Compact, shall be deemed the actual Stateline flow.

(d) The term "Stateline reach" means that portion of the Sabine River lying between the Stateline and Sabine Lake.

(e) The term "the Administration" means the Sabine River Compact Administration established under Article VII.

(f) The term "Domestic use" means the use of water by an individual, or by a family unit or household for drinking, cooking, laundering, sanitation and other personal comforts and necessities; and for the irrigation of an area not to exceed one acre, obtained directly from the Sabine River or its tributaries by an individual or family unit, not supplied by a water company, water district or municipality.

(g) The term "stock water use" means the use of water for any and all livestock and poultry.

(h) The term "consumptive use" means use of water resulting in its permanent removal from the stream.

(i) The terms "domestic" and "stock water" reservoir mean any reservoir for either or both of such uses having a storage capacity of fifty (50) acre feet or less.

(j) "Stored water" means water stored in reservoirs (exclusive of domestic or stock water reservoirs) or water withdrawn or released from reservoirs for specific uses and the identifiable return flow from such uses.

(k) The term "free water" means all waters other than "stored waters" in the Stateline reach including, but not limited to, that appearing as natural stream flow and not withdrawn or released from a reservoir for specific uses. Waters released from reservoirs for the purpose of maintaining stream flows as provided in Article V, shall be "free water". All reservoir spills or releases of stored waters made in anticipation of spills, shall be free water.

(l) Where the name of the State or the term "State" is used in this Compact, it shall be construed to include any person or entity of any nature whatsoever of the States of Louisiana or Texas using, claiming, or in any manner asserting any right to the use of the waters of the Sabine River under the authority of that State.

(m) Wherever any State or Federal official or agency is referred to in this Compact, such reference shall apply equally to the comparable official or agency succeeding to their duties and functions.

ARTICLE II

Subject to the provisions of Article X, nothing in this Compact shall be construed as applying to, or interfering with, the right or power of either signatory State to regulate within its boundaries the appropriation, use and control of water, not inconsistent with its obligation under this Compact.

ARTICLE III

Subject to the provisions of Article X, all rights to any of the waters of the Sabine River which have been obtained in accordance with the laws of the States are hereby recognized and affirmed; provided, however, that withdrawals, from time to time, for the satisfaction of such rights, shall be subject to the availability of supply in accordance with the apportionment of water provided under the terms of this Compact.

ARTICLE IV

Texas shall have free and unrestricted use of all waters of the Sabine River and its tributaries above the Stateline subject, however, to the provisions of Articles V and X.

ARTICLE V

Texas and Louisiana hereby agree upon the following apportionment of the waters of the Sabine River:

(a) All free water in the Stateline reach shall be divided equally between the two States, this division to be made without reference to the origin.

(b) The necessity of maintaining a minimum flow at the Stateline for the benefit of water users below the Stateline in both States is recognized, and to this end it is hereby agreed that:

(1) Reservoirs and permits above the Stateline existing as of January 1, 1953 shall not be liable for maintenance of the flow at the Stateline.

(2) After January 1, 1953, neither State shall permit or authorize any additional uses which would have the effect of reducing the flow at the Stateline to less than 36 cubic feet per second.

(3) Reservoirs on which construction is commenced after January 1, 1953, above the Stateline shall be liable for their share of water necessary to provide a minimum flow at the Stateline of 36 cubic feet per second; provided, that no reservoir shall be liable for a greater percentage of this minimum flow than the percentage of the drainage area above the Stateline contributing to that reservoir, exclusive of the watershed of any reservoir on which construction was started prior to January 1, 1953. Water released from Texas' reservoirs to establish the minimum flow of 36 cubic feet per second, shall be classed as free water at the Stateline and divided equally between the two States.

(c) The right of each State to construct impoundment reservoirs and other works of improvement on the Sabine River or its tributaries located wholly within its boundaries is hereby recognized.

(d) In the event that either State constructs reservoir storage on the tributaries below Stateline after January 1, 1953, there shall be deducted from that State's share of the flow in the Sabine River all reductions in flow resulting from the operation of the tributary storage and conversely such State shall be entitled to the increased flow resulting from the regulation provided by such storage.

(e) Each State shall have the right to use the main channel of the Sabine River to convey water stored on the Sabine River or its tributaries located wholly within its boundaries, downstream to a desired point of removal without loss of ownership of such stored waters. In the event that such water is released by a State through the natural channel of a tributary and the channel of the Sabine River to a downstream point of removal, a reduction shall be made in the amount of water which can be withdrawn at the point of removal equal to the transmission losses.

(f) Each State shall have the right to withdraw its share of the water from the channel of the Sabine River in the Stateline reach in accordance with

Article VII. Neither State shall withdraw at any point more than its share of the flow at that point except, that pursuant to findings and determination of the Administration as provided under Article VII of this Compact, either State may withdraw more or less of its share of the water at any point providing that its aggregate withdrawal shall not exceed its total share. Withdrawals made pursuant to this paragraph shall not prejudice or impair the existing rights of users of Sabine River waters.

(g) Waters stored in reservoirs constructed by the States in the Stateline reach shall be shared by each State in proportion to its contribution to the cost of storage. Neither State shall have the right to construct a dam on the Stateline reach without the consent of the other State.

(h) Each State may vary the rate and manner of withdrawal of its share of such jointly stored waters on the Stateline reach, subject to meeting the obligations for amortization of the cost of the joint storage. In any event, neither State shall withdraw more than its prorata share in any one year (a year meaning a water year, October 1st to September 30th) except by authority of the Administration. All jointly stored water remaining at the end of a water year shall be reapportioned between the States in the same proportion as their contribution to the cost of the storage.

(i) Except for jointly stored water, as provided in (h) above, each State must use its apportionment of the natural stream flows as they occur and there shall be no allowance of accumulation of credits or debits for or against either State. The failure of either State to use the stream flow or any part thereof, the use of which is apportioned to it under the terms of this Compact, shall not constitute a relinquishment of the right to such use in the future; conversely, the failure of either State to use the water at the time it is available does not give it the right to the flow in excess of its share of the flow at any other time.

(j) From the apportionment of waters of the Sabine River as defined in this Article, there shall be excluded from such apportionment all waters consumed in either State for domestic and stock water uses. Domestic and stock water reservoirs shall be so excluded.

(k) Each State may use its share of the water apportioned to it in any manner that may be deemed beneficial by that State.

ARTICLE VI

(a) The States through their respective appropriate agencies or subdivisions may construct jointly, or cooperate with any agency or instrumentality of the United States in the construction of works on the Stateline reach for the development, conservation and utilization for all beneficial purposes of the waters of the Sabine River.

(b) All monetary revenues growing out of any joint State ownership, title and interest in works

constructed under Section (a) above, and accruing to the States in respect thereof, shall be divided between the States in proportion to their respective contributions to the cost of construction; provided however, that each State shall retain undivided all its revenues from recreational facilities within its boundaries incidental to the use of the waters of the Sabine River, and from its severally State-owned recreational facilities constructed appurtenant thereto.

(c) All operation and maintenance costs chargeable against any State ownership, title and interest in works constructed under Section (a) above, shall be assessed in proportion to the contribution of each State to the original cost of construction.

ARTICLE VII

(a) There is hereby created an interstate administrative agency to be designated as the "Sabine River Compact Administration" herein referred to as "the Administration".

(b) The Administration shall consist of two members from each State and of one member as representative of the United States, chosen by the President of the United States, who is hereby requested to appoint such a representative. The United States member shall be ex-officio chairman of the Administration without vote and shall not be a domiciliary of or reside in either State. The appointed members for Texas and Louisiana shall be designated within thirty days after the effective date of this Compact.

(c) The Texas members shall be appointed by the Governor for a term of six years; provided, however, that one of the original Texas members shall be appointed for a term to establish a half-term interval between the expiration dates of the terms of such members, and thereafter one such member shall be appointed each three (3) years for the regular term. One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four (4) years; provided that the first member so appointed shall serve until June 30, 1958. Each state member shall hold office subject to the laws of his state or until his successor has been duly appointed and qualified.

(d) Interim vacancy, for whatever cause, in the office of any member of the Administration shall be filled for the unexpired term in the same manner as hereinabove provided for regular appointment.

(e) Within sixty days after the effective date of this Compact, the Administration shall meet and organize. A quorum for any meeting shall consist of three voting members of the Administration. Each State member shall have one vote, and every decision, authorization, determination, order or other action shall require the concurring votes of at least three members.

(f) The Administration shall have power to:

(1) Adopt, amend and revoke by-laws, rules and regulations, and prescribe procedures for administration of and consistent with the provisions of this Compact;

(2) Fix and determine from time to time the location of the Administration's principal office;

(3) Employ such engineering, legal, clerical and other personnel, without regard to the civil service laws of either State, as the Administration may determine necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact; provided, that such employees shall be paid by and be responsible to the Administration and shall not be considered to be employees of either State;

(4) Procure such equipment, supplies and technical assistance as the Administration may determine to be necessary or proper to supplement State-furnished assistance as hereinafter provided, for the performance of its functions under this Compact;

(5) Adopt a seal which shall be judicially recognized.

(g) In cooperation with the chief official administering water rights in each State and with appropriate Federal agencies, the Administration shall have and perform powers and duties as follows:

(1) To collect, analyze, correlate, compile and report on data as to water supplies, stream flows, storage, diversions, salvage and use of the waters of the Sabine River and its tributaries, and as to all factual data necessary or proper for the administration of this Compact;

(2) To designate as official stations for the administration of this Compact such existing water gauging stations (and to operate, maintain, repair and abandon the same), and to locate, establish, construct, operate, maintain, repair and abandon additional such stations, as the Administration may from time to time find and determine necessary or appropriate;

(3) To make findings as to the deliveries of water at Stateline as hereinabove provided, from the stream-flow records of the Stateline gauge which shall be operated and maintained by the Administration or in cooperation with the appropriate Federal agency, for determination of the actual Stateline flow unless the Administration shall find and determine that, because of changed physical conditions or for any other reason, reliable records are not obtainable thereat; in which case such existing Stateline station may with the approval of the Administration be abandoned and, with such approval, a substitute Stateline station established in lieu thereof;

(4) To make findings as to the quantities of reservoir storage (including joint storage) and releases therefrom, diversions, transmission losses and as to incident stream-flow changes, and as to the share of such quantities chargeable against or allocable to the respective States;

(5) To record and approve all points of diversion at which water is to be removed from the Sabine River or its tributaries below the Stateline; provided that, in any case, the State agency charged with the administration of the water laws for the State in which such point of diversion is located shall first have approved such point for removal or diversion; provided further, that any such point of removal or diversion once jointly approved by the appropriate State agency and the Administration, shall not thereafter be changed without the joint amendatory approval of such State agency and the Administration;

(6) To require water users at their expense to install and maintain measuring devices of approved type in any ditch, pumping station or other water diversion works on the Sabine River or its tributaries below the Stateline, as the Administration may determine necessary or proper for the purposes of this Compact; provided that the chief official of each State charged with the administration of water rights therein shall supervise the execution and enforcement of the Administration's requirements for such measuring devices;

(7) To investigate any violation of this Compact and to report findings and recommendations thereon to the chief official of the affected State charged with the administration of water rights, or to the Governor of such State as the Administration may deem proper;

(8) To acquire, hold, occupy and utilize such personal and real property as may be necessary or proper for the performance of its duties and functions under this Compact;

(9) To perform all functions required of the Administration by this Compact, and to do all things necessary, proper or convenient in the performance of its duties hereunder.

(h) Each State shall provide such available facilities, supplies, equipment, technical information and other assistance as the Administration may require to carry out its duties and function, and the execution and enforcement of the Administration's orders shall be the responsibility of the agents and officials of the respective States charged with the administration of water rights therein. State officials shall furnish pertinent factual and technical data to the Administration upon its request.

(i) Findings of fact made by the Administration shall not be conclusive in any court or before any agency or tribunal but shall constitute prima facie evidence of such facts.

(j) In the case of a tie vote on any of the Administration's determinations, orders or other actions subject to arbitration, then arbitration shall be a condition precedent to any right of legal action. Either side of a tie vote may, upon request, submit the question to arbitration. If there shall be arbitration, there shall be three arbitrators: one named in writing by each side, and the third chosen by the

two arbitrators so elected. If the arbitrators fail to select a third within ten days, then he shall be chosen by the Representative of the United States.

(k) The salaries, if any, and the personal expenses of each member of the Administration, shall be paid by the Government which he represents. All other expenses incident to the administration of this Compact and which are not paid by the United States shall be borne equally by the States. Ninety days prior to the Regular Session of the Legislature of either State, the Administration shall adopt and transmit to the Governor of such State for his approval, its budget covering anticipated expenses for the forthcoming biennium and the amount thereof payable by such State. Upon approval by its Governor, each State shall appropriate and pay the amount due by it to the Administration. The Administration shall keep accurate accounts of all receipts and disbursements and shall include a statement thereof, together with a certificate of audit by a certified public accountant, in its annual report. Each State shall have the right to make an examination and audit of the accounts of the Administration at any time.

(l) The Administration shall, whenever requested, provide access to its records by the Governor of either State or by the chief official of either State charged therein with the administration of water rights. The Administration shall annually on or before January 15th of each year make and transmit to the Governors of the signatory States, and to the President of the United States, a report of the Administration's activities and deliberations for the preceding year.

ARTICLE VIII

(a) This Compact shall become effective when ratified by the Legislature and approved by the Governors of both States and when approved by the Congress of the United States.

(b) The provisions of this Compact shall remain in full force and effect until modified, altered or amended, or in the same manner as hereinabove required for ratification thereof. The right so to modify, alter or amend this Compact is expressly reserved. This Compact may be terminated at any time by mutual consent of the signatory States. In the event this Compact is terminated as herein provided, all rights then vested hereunder shall continue unimpaired.

(c) Should a court of competent jurisdiction hold any part of this Compact to be contrary to the constitution of any signatory State or of the United States of America, all other severable provisions of this Compact shall continue in full force and effect.

ARTICLE IX

This Compact is made and entered into for the sole purpose of effecting an equitable apportionment and providing beneficial uses of the waters of the Sabine River, its tributaries and its watershed, without regard to the boundary between Louisiana

and Texas, and nothing herein contained shall be construed as an admission on the part of either State or any agency, commission, department or subdivision thereof, respecting the location of said boundary; and neither this Compact nor any data compiled for the preparation or administration thereof shall be offered, admitted or considered in evidence, in any dispute, controversy, or litigation bearing upon the matter of the location of said boundary.

The term "Stateline" as defined in this Compact shall not be construed to define the actual boundary between the State of Texas and the State of Louisiana.

ARTICLE X

Nothing in this Compact shall be construed as affecting, in any manner, any present or future rights or powers of the United States, its agencies, or instrumentalities in, to and over the waters of the Sabine River Basin.

IN WITNESS WHEREOF, the Representatives have executed this Compact in three counterparts hereof, each of which shall be and constitute an original, one of which shall be forwarded to the Administrator, General Services Administration of the United States of America and one of which shall be forwarded to the Governor of each State.

DONE in the City of Logansport, in the State of Louisiana, this 26th day of January, 1953.

(SIGNED—Henry L. Woodworth)
HENRY L. WOODWORTH,
Representative for the
State of Texas

(SIGNED—John W. Simmons)
JOHN W. SIMMONS, Repre-
sentative for the State of
Texas

(SIGNED—Roy T. Sessums)
ROY T. SESSUMS, Repre-
sentative for the State of
Louisiana

APPROVED:

(SIGNED—Louis W. Prentiss)
LOUIS W. PRENTISS, Repre-
sentative of the United States.

[Acts 1971, 62nd Leg., p. 261, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 824, ch. 374, § 1, eff. June 12, 1973.]

CHAPTER 45. NEGOTIATION OF RED RIVER COMPACT

Sec.	
45.001.	Appointment of Commissioner.
45.0011.	Application of Sunset Act.
45.002.	Term of Office.
45.003.	Oath.
45.004.	Compensation; Expenses.
45.005.	Powers.
45.006.	Cooperation of Water Rights Commission.
45.007.	Agreement to be Ratified.

§ 45.001. Appointment of Commissioner

The governor, with the advice and consent of the senate, shall appoint a Red River Compact Commissioner to represent this state in conferences with duly appointed compact commissioners of other affected states and a United States representative appointed by the president, to negotiate a compact with each of the affected states respecting the use, control, and disposition of the water of the Red River and its tributaries.

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1782, ch. 656, § 1, eff. June 16, 1973.]

§ 45.0011. Application of Sunset Act

The office of Red River Compact Commissioner for Texas is subject to the Texas Sunset Act;¹ and unless continued in existence as provided by that Act the office is abolished, and this chapter expires effective September 1, 1985.

[Acts 1977, 65th Leg., p. 1845, ch. 735, § 2.092, eff. Aug. 29, 1977.]

¹ Civil Statutes, art. 5429k.

§ 45.002. Term of Office

The commissioner first appointed under this Act holds office until February 1, 1975 and until his successor is appointed and has qualified. Thereafter, the commissioner or his successor holds office for successive terms of four years from February 1, 1975.

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1783, ch. 656, § 2, eff. June 16, 1973.]

§ 45.003. Oath

The commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his duties as commissioner.

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 45.004. Compensation; Expenses

The commissioner is entitled to compensation in an annual amount to be determined by the Legislature in appropriation bills. He is entitled to reimbursement for necessary expenses. The commissioner shall not be subject to the State Employees Retirement Act (Article 6228a, Vernon's Texas Civil Statutes).

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1783, ch. 656, § 3, eff. June 16, 1973.]

§ 45.005. Powers

(a) The commissioner may meet and confer with the compact commissioners for the other affected states and the representative of the United States at any place the commissioners consider proper.

(b) The commissioner may make investigations and procure data as necessary for the proper performance of his duties. With the approval of the governor, he may employ clerical, legal, engineering, and other employees as necessary for the proper performance of his duties.

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 45.006. Cooperation of Water Rights Commission

The Texas Water Rights Commission shall cooperate with the commissioner in the performance of his duties and shall furnish him any available data and information he needs.

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 45.007. Agreement to be Ratified

Any agreement which may be entered into between the commissioner on behalf of this state and the compact commissioners of the other affected states and the representative of the United States shall be reduced to writing and submitted to the governor of this state. No such agreement has any binding effect upon this state or its legal representatives until it has been ratified by the legislature of this state and approved by the governor, ratified by the legislatures of the other affected states, and consented to by the Congress of the United States.

[Acts 1971, 62nd Leg., p. 270, ch. 58, § 1, eff. Aug. 30, 1971.]

CHAPTER 46. RED RIVER COMPACT

Sec.

- 46.001. Ratification.
- 46.002. Original Copy.
- 46.003. Commissioner.
- 46.004. Term of Office.
- 46.005. Oath.
- 46.006. Compensation; Expenses.
- 46.007. Powers and Duties.
- 46.008. Executive Director.
- 46.009. Employees; Administrative Expenses.
- 46.010. Cooperation of Texas Department of Water Resources.
- 46.011. Notification of Other Parties; Copies.
- 46.012. Time When Compact Binding.
- 46.013. Text of Compact.

§ 46.001. Ratification

The Red River Compact, the text of which is set out in Section 46.013 of this code, is ratified and confirmed in all respects after having been signed at Denison Dam, on the Texas-Oklahoma border, on May 12, 1978, by John P. Saxton, commissioner for the State of Arkansas, Orville B. Saunders, commissioner for the State of Oklahoma, Arthur R. Theis, commissioner for the State of Louisiana, and Fred Parkey, commissioner for the State of Texas, and

approved by R. C. Marshall, representative of the United States.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.003. Commissioner

The governor, with the advice and consent of the senate, shall appoint a commissioner to represent this state on the commission established by Article IX of the compact.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.004. Term of Office

The appointed commissioner holds office for a term of two years and until his or her successor is appointed and qualified.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.005. Oath

The appointed commissioner shall take the constitutional oath of office and shall also take an oath to faithfully perform his or her duties as commissioner.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.006. Compensation; Expenses

(a) The appointed commissioner is entitled to receive as compensation \$15,600 a year until otherwise provided by legislative appropriation and is entitled to reimbursement for actual and necessary expenses while traveling in the discharge of official duties.

(b) The appointed commissioner is not covered by Chapter 352, Acts of the 50th Legislature, Regular Session, 1947, as amended (Article 6228a, Vernon's Texas Civil Statutes).

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.007. Powers and Duties

The appointed commissioner is responsible for administering the provisions of the compact and has all the powers and duties prescribed by the compact.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.008. Executive Director

(a) The executive director of the Texas Department of Water Resources or a designated representative selected from the staff of the department shall also serve as a commissioner and represent this

state on the commission established by Article IX of the compact.

(b) The executive director or the designated representative may exercise the powers and shall discharge the duties provided by the compact.

(c) The executive director or the designated representative is not entitled to additional compensation for performing the duties under the compact but is entitled to reimbursement for actual and necessary expenses incurred while traveling in the discharge of official duties.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.009. Employees; Administrative Expenses

The commissioners, in conjunction with other members of the commission and as authorized by the legislature, may employ engineering and clerical personnel and may incur necessary office expenses for the appointed commissioner and other expenses incident to the proper performance of their duties and the proper administration of the compact. However, the commissioner shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.010. Cooperation of Texas Department of Water Resources

The Texas Department of Water Resources shall cooperate with the commissioners in the performance of their duties and shall furnish them any factual data and information that are available.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.011. Notification of Other Parties; Copies

The governor shall notify the Governor of Arkansas, the Governor of Louisiana, the Governor of Oklahoma, and the President of the United States of the ratification of the compact by this state. On request of the governor, the secretary of state shall furnish to each of these other governors and the president a certified copy of the Act adopting this chapter of the code.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.012. Time When Compact Binding

The compact is binding and obligatory when it is ratified by the legislatures of Arkansas, Louisiana, and Oklahoma and consented to by the United States under Article XIII of the compact.

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24, 1979.]

§ 46.013. Text of Compact

The Red River Compact reads as follows:

"PREAMBLE

"The States of Arkansas, Louisiana, Oklahoma, and Texas, pursuant to the acts of their respective Governors or legislatures, or both, being moved by considerations of interstate comity, have resolved to compact with respect to the water of the Red River and its tributaries. By Act of Congress, Public Law No. 346 (84th Congress, First Session), the consent of the United States has been granted for said states to negotiate and enter into a compact providing for an equitable apportionment of such water; and pursuant to that Act the President has designated the representative of the United States.

"Further, the consent of Congress has been given for two or more states to negotiate and enter into agreements relating to water pollution control by the provisions of the Federal Water Pollution Control Act (P.L. 92-500, 33 U.S.C. Subsection 1251 et seq.).

"The Signatory States acting through their duly authorized Compact Commissioners, after several years of negotiations, have agreed to an equitable apportionment of the water of the Red River and its tributaries and do hereby submit and recommend that this compact be adopted by the respective legislatures and approved by Congress as herein-after set forth:

"ARTICLE I

"PURPOSES

"§ 1.01. The principal purposes of this Compact are:

"(a) To promote interstate comity and remove causes of controversy between each of the affected states by governing the use, control and distribution of the interstate water of the Red River and its tributaries;

"(b) To provide an equitable apportionment among the Signatory States of the water of the Red River and its tributaries;

"(c) To promote an active program for the control and alleviation of natural deterioration and pollution of the water of the Red River Basin and to provide for enforcement of the laws related thereto;

"(d) To provide the means for an active program for the conservation of water, protection of lives and property from floods, improvement of water quality, development of navigation and regulation of flows in the Red River Basin; and

"(e) To provide a basis for state or joint state planning and action by ascertaining and identifying each state's share in the interstate water of the Red River Basin and the apportionment thereof.

"ARTICLE II

"GENERAL PROVISIONS

"§ 2.01. Each Signatory State may use the water allocated to it by this Compact in any manner deemed beneficial by that state. Each state may

freely administer water rights and uses in accordance with the laws of that state, but such uses shall be subject to the availability of water in accordance with the apportionments made by this Compact.

"§ 2.02. The use of water by the United States in connection with any individual Federal project shall be in accordance with the Act of Congress authorizing the project and the water shall be charged to the state or states receiving the benefit therefrom.

"§ 2.03. Any Signatory State using the channel of Red River or its tributaries to convey stored water shall be subject to an appropriate reduction in the amount which may be withdrawn at the point of removal to account for transmission losses.

"§ 2.04. The failure of any state to use any portion of the water allocated to it shall not constitute relinquishment or forfeiture of the right to such use.

"§ 2.05. Each Signatory State shall have the right to:

"(a) Construct conservation storage capacity for the impoundment of water allocated by this Compact;

"(b) Replace within the same area any storage capacity recognized or authorized by this Compact made unusable by any cause, including losses due to sediment storage;

"(c) Construct reservoir storage capacity for the purposes of flood and sediment control as well as storage of water which is either imported or is to be exported if such storage does not adversely affect the delivery of water apportioned to any other Signatory State; and

"(d) Use the bed and banks of the Red River and its tributaries to convey stored water, imported or exported water, and water apportioned according to this Compact.

"§ 2.06. Signatory States may cooperate to obtain construction of facilities of joint benefits to such states.

"§ 2.07. Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States, or those claiming under its authority, in, over and to water of the Red River Basin.

"§ 2.08. Nothing in this Compact shall be construed to include within the water apportioned by this Compact any water consumed in each state by livestock or for domestic purposes; provided, however, the storage of such water is in accordance with the laws of the respective states but any such impoundment shall not exceed 200 acre-feet, or such smaller quantity as may be provided for by the laws of each state.

"§ 2.09. In the event any state shall import water into the Red River Basin from any other river basin, the Signatory State making the importation shall have the use of such imported water.

“§ 2.10. Nothing in this Compact shall be deemed to:

“(a) Interfere with or impair the right or power of any Signatory State to regulate within its boundaries the appropriation, use, and control of water, or quality of water, not inconsistent with its obligations under this Compact;

“(b) Repeal or prevent the enactment of any legislation or the enforcement of any requirement by any Signatory State imposing any additional conditions or restrictions to further lessen or prevent the pollution or natural deterioration of water within its jurisdiction; provided nothing contained in this paragraph shall alter any provision of this Compact dealing with the apportionment of water or the rights thereto; or

“(c) Waive any state’s immunity under the Eleventh Amendment of the Constitution of the United States, or as constituting the consent of any state to be sued by its own citizens.

“§ 2.11. Accounting for apportionment purposes on interstate streams shall not be mandatory under the terms of the Compact until one or more affected states deem the accounting necessary.

“§ 2.12. For the purposes of apportionment of the water among the Signatory States, the Red River is hereby divided into the following major subdivisions:

“(a) Reach I—the Red River and tributaries from the New Mexico-Texas State boundary to Denison Dam;

“(b) Reach II—the Red River from Denison Dam to the point where it crosses the Arkansas-Louisiana state boundary and all tributaries which contribute to the flow of the River within this reach;

“(c) Reach III—the tributaries west of the Red River which cross the Texas-Louisiana state boundary, the Arkansas-Louisiana state boundary, and those which cross both the Texas-Arkansas state boundary and the Arkansas-Louisiana state boundary.

“(d) Reach IV—the tributaries east of the Red River in Arkansas which cross the Arkansas-Louisiana state boundary; and

“(e) Reach V—that portion of the Red River and tributaries in Louisiana not included in Reach III or in Reach IV.

“§ 2.13. If any part or application of this Compact shall be declared invalid by a court of competent jurisdiction, all other severable provisions and applications of this Compact shall remain in full force and effect.

“§ 2.14. Subject to the availability of water in accordance with this Compact, nothing in this Compact shall be held or construed to alter, impair, or increase, validate, or prejudice any existing water right or right of water use that is legally recognized on the effective date of this Compact by either statutes or courts of the Signatory State within which it is located.

“ARTICLE III

“DEFINITIONS

“3.01. In this Compact:

“(a) The States of Arkansas, Louisiana, Oklahoma, and Texas are referred to as ‘Arkansas,’ ‘Louisiana,’ ‘Oklahoma,’ and ‘Texas,’ respectively, or individually as ‘State’ or ‘Signatory State,’ or collectively as ‘States’ or ‘Signatory States.’

“(b) The term ‘Red River’ means the stream below the crossing of the Texas-Oklahoma state boundary at longitude 100 degrees west.

“(c) The term ‘Red River Basin’ means all of the natural drainage area of the Red River and its tributaries east of the New Mexico-Texas state boundary and above its junction with Atchafalaya and Old Rivers.

“(d) The term ‘water of the Red River Basin’ means the water originating in any part of the Red River Basin and flowing to or in the Red River or any of its tributaries.

“(e) The term ‘tributary’ means any stream which contributes to the flow of the Red River.

“(f) The term ‘interstate tributary’ means a tributary of the Red River, the drainage area of which includes portions of two or more Signatory States.

“(g) The term ‘intrastate tributary’ means a tributary of the Red River, the drainage area of which is entirely within a single Signatory State.

“(h) The term ‘Commission’ means the agency created by Article IX of this Compact for the administration thereof.

“(i) The term ‘pollution’ means the alteration of the physical, chemical, or biological characteristics of water by the acts or instrumentalities of man which create or are likely to result in a material and adverse effect upon human beings, domestic or wild animals, fish and other aquatic life, or adversely affect any other lawful use of such water; provided, that for the purposes of this Compact, ‘pollution’ shall not mean or include ‘natural deterioration.’

“(j) The term ‘natural deterioration’ means the material reduction in the quality of water resulting from the leaching of solubles from the soils and rocks through or over which the water flows naturally.

“(k) The term ‘designated water’ means water released from storage, paid for by non-Federal interests, for delivery to a specific point of use or diversion.

“(l) The term ‘undesignated water’ means all water released from storage other than ‘designated water.’

“(m) The term ‘conservation storage capacity’ means that portion of the active capacity of reservoirs available for the storage of water for subsequent beneficial use, and it excludes any portion of the capacity of reservoirs allocated solely to flood control and sediment control, or either of them.

“(n) The term ‘runoff’ means both the portion of precipitation which runs off the surface of a drainage area and that portion of the precipitation that enters the streams after passing through the portions of the earth.

“ARTICLE IV

“APPORTIONMENT OF WATER—REACH I

“OKLAHOMA—TEXAS

“Subdivision of Reach I and apportionment of water therein. Reach I of the Red River is divided into topographical subbasins, with the water therein allocated as follows:

“§ 4.01. Subbasin 1—Interstate streams—Texas.

“(a) This includes the Texas portion of Buck Creek, Sand (Lebos) Creek, Salt Fork Red River, Elm Creek, North Fork Red River, Sweetwater Creek, and Washita River, together with all their tributaries in Texas which lie west of the 100th Meridian.

“(b) The annual flow within this subbasin is hereby apportioned sixty (60) percent to Texas and forty (40) percent to Oklahoma.

“§ 4.02. Subbasin 2—Intrastate and Interstate streams—Oklahoma.

“(a) This subbasin is composed of all tributaries of the Red River in Oklahoma and portions thereof upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west, beginning from Denison Dam and upstream to and including Buck Creek.

“(b) The State of Oklahoma shall have free and unrestricted use of the water of this subbasin.

“§ 4.03. Subbasin 3—Intrastate streams—Texas.

“(a) This includes the tributaries of the Red River in Texas, beginning from Denison Dam and upstream to and including Prairie Dog Town Fork Red River.

“(b) The State of Texas shall have free and unrestricted use of the water in this subbasin.

“§ 4.04. Subbasin 4—Mainstem of the Red River and Lake Texoma.

“(a) This subbasin includes all of Lake Texoma and the Red River beginning at Denison Dam and continuing upstream to the Texas-Oklahoma state boundary at longitude 100 degrees west.

“(b) The storage of Lake Texoma and flow from the mainstem of the Red River into Lake Texoma is apportioned as follows:

“(1) Oklahoma 200,000 acre-feet and Texas 200,000 acre-feet, which quantities shall include existing allocations and uses; and

“(2) Additional quantities in a ratio of fifty (50) percent to Oklahoma and fifty (50) percent to Texas.

“§ 4.05. Special Provisions.

“(a) Texas and Oklahoma may construct, jointly or in cooperation with the United States, storage or other facilities for the conservation and use of water; provided that any facilities constructed on the Red River boundary between the two states shall not be inconsistent with the Federal legislation authorizing Denison Dam and Reservoir project.

“(b) Texas shall not accept for filing, or grant a permit, for the construction of a dam to impound water solely for irrigation, flood control, soil conservation, mining and recovery of minerals, hydroelectric power, navigation, recreation and pleasure, or for any other purpose other than for domestic, municipal, and industrial water supply, on the mainstem of the North Fork Red River or any of its tributaries within Texas above Lugert-Altus Reservoir until the date that imported water, sufficient to meet the municipal and irrigation needs of Western Oklahoma is provided, or until January 1, 2000, whichever occurs first.

“ARTICLE V

“APPORTIONMENT OF WATER—REACH II

“ARKANSAS, OKLAHOMA, TEXAS AND LOUISIANA

“Subdivision of Reach II and allocation of water therein. Reach II of the Red River is divided into topographic subbasins, and the water therein is allocated as follows:

“§ 5.01. Subbasin 1—Intrastate streams—Oklahoma.

“(a) This subbasin includes those streams and their tributaries above existing, authorized or proposed last downstream major damsites, wholly in Oklahoma and flowing into Red River below Denison Dam and above the Oklahoma-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Island-Bayou	Albany	85,200	33°51.5'N	96°11.4'W
Blue River	Durant	147,000	33°55.5'N	96°04.2'W
Boggy River	Boswell	1,243,800	34°01.6'N	95°45.0'W
Kiamichi River	Hugo	240,700	34°01.0'N	95°22.6'W

“(b) Oklahoma is apportioned the water of this subbasin and shall have unrestricted use thereof.

“§ 5.02. Subbasin—Intrastate streams—Texas.

“(a) This subbasin includes those streams and their tributaries above existing authorized or proposed

last downstream major damsites, wholly in Texas and flowing into Red River below Denison Dam and above the Texas-Arkansas state boundary. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Coffee Mill Creek	Coffee Mill Lake	8,000	33°44.1'N	95°58.0'W
Sandy Creek	Lake Crockett	3,900	33°44.5'N	95°55.5'W
Sanders Creek	Pat Mayse	124,500	33°51.2'N	95°32.9'W
Pine Creek	Lake Crook	11,011	33°43.7'N	95°34.0'W
Big Pine Creek	Big Pine Lake	138,600	33°52.0'N	95°11.7'W
Pecan Bayou	Pecan Bayou	625,000	33°41.1'N	94°58.7'W
Mud Creek	Liberty Hill	97,700	33°33.0'N	94°29.3'W
Mud Creek	KVW Ranch Lakes(3)	3,440	33°34.8'N	94°27.3'W

“(b) Texas is apportioned the water of this subbasin and shall have unrestricted use thereof.

“§ 5.03. Subbasin 3—Interstate Streams—Oklahoma and Arkansas.

“(a) This subbasin includes Little River and its tributaries above Millwood Dam.

“(b) The States of Oklahoma and Arkansas shall have free and unrestricted use of the water of this subbasin within their respective states, subject, however, to the limitation that Oklahoma shall allow a quantity of water equal to 40 percent of the total runoff originating below the following existing, authorized or proposed last downstream major damsites in Oklahoma to flow into Arkansas:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Little River	Pine Creek	70,500	34°06.8'N	95°04.9'W
Glover Creek	Lukfata	258,600	34°08.5'N	94°55.4'W
Mountain Fork River	Broken Bow	470,100	34°08.9'N	94°41.2'W

“(c) Accounting will be on an annual basis unless otherwise deemed necessary by the States of Arkansas and Oklahoma.

“§ 5.04. Subbasin 4—Interstate streams—Texas and Arkansas.

“(a) This subbasin shall consist of those streams and their tributaries above existing, authorized or

proposed last downstream major damsites, originating in Texas and crossing the Texas-Arkansas state boundary before flowing into the Red River in Arkansas. These streams and their tributaries with existing, authorized or proposed last downstream major damsites are as follows:

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
McKinney Bayou Trib.	Bringle Lake	3,052	33°30.6'N	94°06.2'W
Barkman Creek	Barkman Reservoir	15,900	33°29.7'N	94°10.3'W
Sulphur River	Texarkana	386,900	33°18.3'N	94°09.6'W

“(b) The State of Texas shall have the free and unrestricted use of the water of this subbasin.

“§ 5.05. Subbasin 5—Mainstem of the Red River and tributaries.

“(a) This subbasin includes that portion of the Red River, together with its tributaries, from Denison Dam down to the Arkansas-Louisiana state bound-

ary, excluding all tributaries included in the other four subbasins of Reach II.

“(b) Water within this subbasin is allocated as follows:

“(1) The Signatory States shall have equal rights to the use of run-off originating in subbasin 5 and undesignated water flowing into subbasin 5, so long as the flow of the Red River at the Arkansas-Louisiana state boundary is 3,000 cubic feet per second or more, provided no state is entitled to more than 25 percent of the water in excess of 3,000 cubic feet per second.

“(2) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary is less than 3,000 cubic feet per second, but more than 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow to flow into the Red River for delivery to the State of Louisiana a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 and 40 percent of undesignated water flowing into subbasin 5; provided, however, that this requirement shall not be interpreted to require any state to release stored water.

“(3) Whenever the flow of the Red River at the Arkansas-Louisiana state boundary falls below 1,000 cubic feet per second, the States of Arkansas, Oklahoma, and Texas shall allow a quantity of water equal to all the weekly runoff originating in subbasin 5 and all undesignated water flowing into subbasin 5 within their respective states to flow into the Red River as required to maintain a 1,000 cubic foot per second flow at the Arkansas-Louisiana state boundary.

“(c) Whenever the flow at Index, Arkansas, is less than 526 c.f.s., the states of Oklahoma and Texas shall each allow a quantity of water equal to 40 percent of the total weekly runoff originating in subbasin 5 within their respective states to flow into the Red River; provided however, this provision shall be invoked only at the request of Arkansas, only after Arkansas has ceased all diversions from the Red River itself in Arkansas above Index, and only if the provisions of Sub-sections 5.05(b)(2) and (3) have not caused a limitation of diversions in subbasin 5.

“(d) No state guarantees to maintain a minimum low flow to a downstream state.

“§ 5.06. Special Provisions.

“(a) Reservoirs within the limits of Reach II, subbasin 5, with a conservation storage capacity of 1,000 acre feet or less in existence or authorized on the date of the Compact pursuant to the rights and privileges granted by a Signatory State authorizing such reservoirs, shall be exempt from the provisions of Section 5.05; provided, if any right to store water in, or use water from, an existing exempt reservoir expires or is cancelled after the effective date of the

Compact the exemption for such rights provided by this section shall be lost.

“(b) A Signatory State may authorize a change in the purpose or place of use of water from a reservoir exempted by subparagraph (a) of this section without losing that exemption, if the quantity of authorized use and storage is not increased.

“(c) Additionally, exemptions from the provisions of Section 5.05 shall not apply to direct diversions from Red River to off-channel reservoirs or lands.

“ARTICLE VI

“APPORTIONMENT OF WATER—REACH III

“ARKANSAS, LOUISIANA, AND TEXAS

“Subdivision of Reach III and allocation of water therein. Reach III of the Red River is divided into topographic subbasins, and the water therein allocated, as follows:

“§ 6.01. Subbasin 1—Interstate streams—Arkansas and Texas.

“(a) This subbasin includes the Texas portion of those streams crossing the Arkansas-Texas state boundary one or more times and flowing through Arkansas into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

“(b) Texas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Arkansas is entitled to forty (40) percent of the runoff of this subbasin.

“§ 6.02. Subbasin 2—Interstate streams—Arkansas and Louisiana.

“(a) This subbasin includes the Arkansas portion of those streams flowing from Subbasin 1 into Arkansas, as well as other streams in Arkansas which cross the Arkansas-Louisiana state boundary one or more times and flow into Cypress Creek-Twelve Mile Bayou watershed in Louisiana.

“(b) Arkansas is apportioned sixty (60) percent of the runoff of this subbasin and shall have unrestricted use thereof; Louisiana is entitled to forty (40) percent of the runoff of this subbasin.

“§ 6.03. Subbasin 3—Interstate streams—Texas and Louisiana.

“(a) This subbasin includes the Texas portion of all tributaries crossing the Texas-Louisiana state boundary one or more times and flowing into Caddo Lake, Cypress Creek-Twelve Mile Bayou or Cross Lake, as well as the Louisiana portion of such tributaries.

“(b) Texas and Louisiana within their respective boundaries shall each have the unrestricted use of the water of this subbasin subject to the following allocation:

“(1) Texas shall have the unrestricted right to all water above Marshall, Lake O’ the Pines, and

Black Cypress damsites; however, Texas shall not cause runoff to be depleted to a quantity less than that which would have occurred with the full operation of Franklin County, Titus County, Ellison Creek, Johnson Creek, Lake O' the Pines, Marshall, and Black Cypress Reservoirs constructed, and those other impoundments and diversions existing on the effective date of this Compact. Any depletions of runoff in excess of the depletions described above shall be charged against Texas' apportionment of the water in Caddo Reservoir.

"(2) Texas and Louisiana shall each have the unrestricted right to use fifty (50) percent of the conservation storage capacity in the present Caddo Lake for the impoundment of water for state use, subject to the provision that supplies for existing uses of water from Caddo Lake, on date of Compact, are not reduced.

"(3) Texas and Louisiana shall each have the unrestricted right to fifty (50) percent of the conservation storage capacity of any future enlargement of Caddo Lake, provided, the two states may negotiate for the release of each state's share of the storage space on terms mutually agreed upon by the two states after the effective date of this Compact.

"(4) Inflow to Caddo Lake from its drainage area downstream from Marshall, Lake O' the Pines, and Black Cypress damsites and downstream from other last downstream dams in existence on the date of the signing of the Compact document by the Compact Commissioners, will be allowed to continue flowing into Caddo Lake except that any manmade depletions to this inflow by Texas will be subtracted from the Texas share of the water in Caddo Lake.

Stream	Site	Ac-ft	Location	
			Latitude	Longitude
Ouachita River	Lake Catherine	19,000	34°26.6'N	93°01.6'W
Caddo River	DeGray Lake	1,377,000	34°13.2'N	93°06.6'W
Little Missouri River	Lake Greeson	600,000	34°08.9'N	93°42.9'W
Alum Fork, Saline River	Lake Winona	63,264	32°47.8'N	92°51.0'W

"(b) Arkansas is apportioned the waters of this subbasin and shall have unrestricted use thereof.

"§ 7.02. Subbasin 2—Interstate Streams—Arkansas and Louisiana.

"(a) This subbasin shall consist of Reach IV less subbasin 1 as defined in Section 7.01(a) above.

"(b) The State of Arkansas shall have free and unrestricted use of the water of this reach subject to the limitation that Arkansas shall allow a quantity of water equal to forty (40) percent of the weekly

"(c) In regard to the water of interstate streams which do not contribute to the inflow to Cross Lake or Caddo Lake, Texas shall have the unrestricted right to divert and use this water on the basis of a division of runoff above the state boundary of sixty (60) percent to Texas and forty (40) percent to Louisiana.

"(d) Texas and Louisiana will not construct improvements on the Cross Lake watershed in either state that will affect the yield of Cross Lake; provided, however, this subsection shall be subject to the provisions of Section 2.08.

"§ 6.04. Subbasin 4—Intrastate streams—Louisiana.

"(a) This subbasin includes that area of Louisiana in Reach III not included within any other subbasin.

"(b) Louisiana shall have free and unrestricted use of the water of this subbasin.

"ARTICLE VII

"APPORTIONMENT OF WATER—REACH IV

"ARKANSAS AND LOUISIANA

"Subdivision of Reach IV and allocation of water therein. Reach IV of the Red River is divided into topographic subbasins, and the water therein allocated as follows:

"§ 7.01. Subbasin 1—Intrastate streams—Arkansas.

"(a) This subbasin includes those streams and their tributaries above last downstream major damsites originating in Arkansas and crossing the Arkansas-Louisiana state boundary before flowing into the Red River in Louisiana. Those major last downstream damsites are as follows:

runoff originating below or flowing from the last downstream major damsite to flow into Louisiana. Where there are no designated last downstream damsites, Arkansas shall allow a quantity of water equal to forty (40) percent of the total weekly runoff originating above the state boundary to flow into Louisiana. Use of water in this subbasin is subject to low flow provisions of subparagraph 7.02(b).

"§ 7.03. Special Provisions.

"(a) Arkansas may use the beds and banks of segments of Reach IV for the purpose of conveying its share of water to designated downstream diversions.

"(b) The State of Arkansas does not guarantee to maintain a minimum low flow for Louisiana in Reach IV. However, on the following streams when the use of water in Arkansas reduces the flow at the Arkansas-Louisiana state boundary to the following amounts:

"(1) Ouachita—780 cfs

"(2) Bayou Bartholomew—80 cfs

"(3) Boeuf River—40 cfs

"(4) Bayou Macon—40 cfs

the state of Arkansas pledges to take affirmative steps to regulate the diversions of runoff originating or flowing into Reach IV in such a manner as to permit an equitable apportionment of the runoff as set out herein to flow into the State of Louisiana. In its control and regulation of the water of Reach IV any adjudication or order rendered by the State of Arkansas or any of its instrumentalities or agencies affecting the terms of this Compact shall not be effective against the State of Louisiana nor any of its citizens or inhabitants until approved by the Commission.

"ARTICLE VIII

"APPORTIONMENT OF WATER—REACH V

"§ 8.01. Reach V of the Red River consists of the mainstem Red River and all of its tributaries lying wholly within the State of Louisiana. The State of Louisiana shall have free and unrestricted use of the water of this subbasin.

"ARTICLE IX

"ADMINISTRATION OF THE COMPACT

"§ 9.01. There is hereby created an interstate administrative agency to be known as the 'Red River Compact Commission,' hereinafter called the 'Commission.' The Commission shall be composed of two representatives from each Signatory State who shall be designated or appointed in accordance with the laws of each state, and one Commissioner representing the United States, who shall be appointed by the President. The Federal Commissioner shall be the Chairman of the Commission but shall not have the right to vote. The failure of the President to appoint a Federal Commissioner will not prevent the operation or effect of this Compact, and the eight representatives from the Signatory States will elect a Chairman for the Commission.

"§ 9.02. The Commission shall meet and organize within 60 days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

"§ 9.03. Each of the two Commissioners from each state shall have one vote; provided, however, that if only one representative from a state attends he is authorized to vote on behalf of the absent Commissioner from that state. Representatives from three states shall constitute a quorum. Any action concerned with administration of this Compact or any action requiring compliance with specific terms of this Compact shall require six concurring votes. If a proposed action of the Commission affects existing water rights in a state, and that action is not expressly provided for in this Compact, eight concurring votes shall be required.

"§ 9.04.

"(a) The salaries and personal expenses of each state's representative shall be paid by the government that it represents, and the salaries and personal expenses of the Federal Commissioner will be paid for by the United States.

"(b) The Commission's expenses for any additional stream flow gaging stations shall be equitably apportioned among the states involved in the reach in which the stream flow gaging stations are located.

"(c) All other expenses incurred by the Commission shall be borne equally by the Signatory States and shall be paid by the Commission out of the 'Red River Compact Commission Fund.' Such Fund shall be initiated and maintained by equal payments of each state into the fund. Disbursement shall be made from the fund in such manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of the state; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become a part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

"ARTICLE X

"POWERS AND DUTIES OF THE COMMISSION

"§ 10.01. The Commission shall have the power to:

"(a) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;

"(b) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;

"(c) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of any Signatory State; provided that such employees shall be paid by and be responsible to the

Commission and shall not be considered employees of any Signatory State.

“(d) Acquire, use and dispose of such real and personal property as it may consider necessary;

“(e) Enter into contracts with appropriate State or Federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;

“(f) Secure from the head of any department or agency of the Federal or State government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

“(g) Make findings, recommendations or reports in connection with carrying out the purposes of this Compact, including, but not limited to, a finding that a Signatory State is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of any Signatory State, or the United States, as may have any interest in or jurisdiction over the subject matter. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by a Signatory State in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

“(h) Print or otherwise reproduce and distribute its proceedings and reports.

“§ 10.02. The Commission shall:

“(a) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;

“(b) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

“(c) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

“(d) Prepare and submit to the governor of each of the Signatory States a budget covering the anticipated expenses of the Commission for the following fiscal biennium;

“(e) Prepare and submit an annual report to the governor of each Signatory State and to the President of the United States covering the activities of the Commission for the preceding fiscal year, to-

gether with an accounting of all funds received and expended by it in the conduct of its work;

“(f) Make available to the governor or to any official agency of a Signatory State or to any authorized representative of the United States, upon request, any information within its possession;

“(g) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of any of the Signatory States; and

“(h) Make available to a Signatory State or the United States in any action arising under this Compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

“ARTICLE XI

“POLLUTION

“§ 11.01. The Signatory States recognize that the increase in population and the growth of industrial, agricultural, mining and other activities combined with natural pollution sources may lead to a diminution of the quality of water in the Red River Basin which may render the water harmful or injurious to the health and welfare of the people and impair the usefulness or public enjoyment of the water for beneficial purposes, thereby resulting in adverse social, economic, and environmental impacts.

“§ 11.02. Although affirming the primary duty and responsibility of each Signatory State to take appropriate action under its own laws to prevent, diminish, and regulate all pollution sources within its boundaries which adversely affect the water of the Red River Basin, the states recognize that the control and abatement of the naturally-occurring salinity sources as well as, under certain circumstances, the maintenance and enhancement of the quality of water in the Red River Basin may require the cooperative action of all states.

“§ 11.03. The Signatory States agree to cooperate with agencies of the United States to devise and effectuate means of alleviating the natural deterioration of the water of the Red River Basin.

“§ 11.04. The Commission shall have the power to cooperate with the United States, the Signatory States and other entities in programs for abating and controlling pollution and natural deterioration of the water of the Red River Basin, and to recommend reasonable water quality objectives to the states.

“§ 11.05. Each Signatory State agrees to maintain current records of waste discharges into the Red River Basin and the type and quality of such discharges, which records shall be furnished to the Commission upon request.

“§ 11.06. Upon receipt of a complaint from the governor of a Signatory State that the interstate water of the Red River Basin in which it has an interest are being materially and adversely affected by pollution and that the state in which the pollution originates has failed after reasonable notice to take appropriate abatement measures, the Commission shall make such findings as are appropriate and thereafter provide such findings to the governor of the state in which such pollution originates and request appropriate corrective action. The Commission, however, shall not take any action with respect to pollution which adversely affects only the state in which such pollution originates.

“§ 11.07. In addition to its other powers set forth under this Article, the Commission shall have the authority, upon receipt of six concurring votes, to utilize applicable Federal statutes to institute legal action in its own name against the person, or entity responsible for interstate pollution problems; provided, however, sixty (60) days before initiating legal action the Commission shall notify the Governor of the state in which the pollution source is located to allow that state an opportunity to initiate action in its own name.

“§ 11.08. Without prejudice to any other remedy available to the Commission, or any Signatory State, any state which is materially and adversely affected by the pollution of the water of the Red River Basin by pollution originating in another Signatory State may institute a suit against any individual, corporation, partnership, or association, or against any Signatory State or political or governmental subdivision thereof, or against any officer, agency, department, bureau, district or instrumentality of or in any Signatory State contributing to such pollution in accordance with applicable Federal statutes. Nothing herein shall be construed as depriving any persons of any rights of action relating to pollution which such person would have if this Compact had not been made.

“ARTICLE XII

“TERMINATION AND AMENDMENT OF COMPACT

“§ 12.01. This Compact may be terminated at any time by appropriate action of the legislatures of all of the four Signatory States. In the event of such termination, all rights established under it shall continue unimpaired.

“§ 12.02. This Compact may be amended at any time by appropriate action of the legislatures of all Signatory States that are affected by such amendment. The consent of the United States Congress must be obtained before any such amendment is effective.

“ARTICLE XIII

“RATIFICATION AND EFFECTIVE DATE OF COMPACT

“§ 13.01. Notice of ratification of this Compact by the legislature of each Signatory State shall be given by the governor thereof to the governors of each of the other Signatory States and to the President of the United States. The President is hereby requested to give notice to the governors of each of the Signatory States of the consent to this Compact by the Congress of the United States.

“§ 13.02. This Compact shall become effective, binding and obligatory when, and only when:

“(a) It has been duly ratified by each of the Signatory States; and

“(b) It has been consented to by an Act of the Congress of the United States, which Act provides that:

“Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

“which involves the construction or application of this Compact;

“in which one or more of the Signatory States to this Compact is a plaintiff or plaintiffs; and

“which is within the judicial power of the United States as set forth in the Constitution of the United States;

“and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

“The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

“§ 13.03. The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other Federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Signatory States; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

SIGNED AND APPROVED on the 12th day of May
1978 at Denison Dam.

John P. Saxton
John P. Saxton, Commissioner
State of Arkansas

Orville B. Saunders
Orville B. Saunders, Commissioner
State of Oklahoma

Arthur R. Theis
Arthur R. Theis, Commissioner
State of Louisiana

Fred Parkey
Fred Parkey, Commissioner
State of Texas

R. C. Marshall
R. C. MARSHALL, Major General
Representative
United States of America"

[Acts 1979, 66th Leg., p. 551, ch. 261, § 1, eff. May 24,
1979.]

CHAPTER 47. CADDO LAKE COMPACT

Sec.

- 47.001. Ratification.
- 47.002. Original Copy.
- 47.003. Commissioner.
- 47.004. Oath.
- 47.005. Powers and Duties.
- 47.006. Executive Director.
- 47.007. Employees; Administrative Expenses.
- 47.008. Cooperation of Texas Department of Water Resources.
- 47.009. Notification of Other Parties; Copies.
- 47.010. Time When Compact Binding.
- 47.011. Text of Compact.

§ 47.001. Ratification

The Caddo Lake Compact, the text of which is set out in Section 47.011 of this code, is ratified and confirmed in all respects after having been signed at Marshall, Texas, on January 26, 1979, by Arthur R. Theis, Red River Compact Commissioner for the State of Louisiana, Fred Parkey, Red River Compact Commissioner for the State of Texas, William M. Huffman, Marshall, Texas, Senator Ed Howard, Texarkana, Texas, Senator Don Williamson, Shreveport, Louisiana, and Calhoun Allen, Shreveport, Louisiana.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.002. Original Copy

An original copy of the compact is on file in the office of the secretary of state.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

(a) The appointed Red River Compact Commissioner shall serve as a commissioner to represent

this state on the commission established by Section 6 of the compact. Additionally, the governor with the advice and consent of the senate shall appoint a local commissioner from the Caddo Lake area in Texas to serve as another commissioner to represent the state on the commission established by Section 6 of the compact.

(b) The appointed Red River Compact Commissioner shall receive no additional compensation for serving as a Caddo Lake Compact Commissioner.

(c) The appointed local commissioner shall receive no compensation for serving as Caddo Lake Compact Commissioner but shall be entitled to reimbursement for actual and necessary expenses incurred in the discharge of official duties.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.004. Oath

The appointed Red River Compact Commissioner and local commissioner shall each take the constitutional oath of office and shall each also take an oath to faithfully perform his or her duties as commissioner.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.005. Powers and Duties

The appointed Red River Compact Commissioner and local commissioner are responsible for administering the provisions of the compact and have all the powers and duties prescribed by the compact.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.006. **Executive Director**

(a) The executive director of the Texas Department of Water Resources or a designated representative selected from the staff of the department shall also serve as a commissioner and represent this state on the commission established by Section 6 of the compact.

(b) The executive director or the designated representative may exercise the powers and shall discharge the duties provided by the compact.

(c) The executive director or the designated representative is not entitled to additional compensation for performing the duties under the compact but is entitled to reimbursement for actual and necessary expenses incurred while traveling in the discharge of official duties.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.007. **Employees; Administrative Expenses**

The commissioners, in conjunction with other members of the commission and as authorized by the legislature, may employ engineering and clerical personnel and may incur necessary office expenses for the appointed Red River Compact Commissioner and other expenses incident to the proper performance of their duties and the proper administration of the compact. However, the commissioners shall not incur any financial obligation on behalf of this state until the legislature has authorized and appropriated money for the obligation.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.008. **Cooperation of Texas Department of Water Resources**

The Texas Department of Water Resources shall cooperate with the commissioners in the performance of their duties and shall furnish them any factual data and information that is available.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.009. **Notification of Other Parties; Copies**

The governor shall notify the Governor of Louisiana and the President of the United States of the ratification of the compact by this state. On request of the governor, the secretary of state shall furnish to the Governor of Louisiana and the President of the United States a certified copy of the Act adopting this chapter of the code.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.010. **Time When Compact Binding**

This compact is binding and obligatory when the Red River Compact has been ratified by the State of Texas and this compact is ratified by the Legisla-

ture of Louisiana and consented to by the United States.

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

§ 47.011. **Text of Compact**

The Caddo Lake Compact reads as follows:

"CADDO LAKE COMPACT

PREAMBLE

The States of Louisiana and Texas, by acts of their respective governors, and based upon previous acts of their legislatures, have appointed representatives, including their respective Red River Compact Commissioners, to negotiate, in the interest of interstate comity and equitable apportionment and use of water, a Compact on Caddo Lake to augment and amplify the provisions of the Red River Compact dealing with Caddo Lake.

The Act of Congress, Public Law No. 346 (84th Congress, First Session), grants consent of federal government to the negotiation of this Compact; pursuant to that act, the President has designated the representative of the United States.

Because the water and water rights of the States of Oklahoma and Arkansas under the Red River Compact are completely unaffected by this Compact, Oklahoma and Arkansas have no objection to this Compact and did not participate in the negotiation of this Compact.

In order to resolve current controversies regarding the use of Caddo Lake water, controversies not adequately dealt with in the Red River Compact, the States of Texas and Louisiana, acting through their authorized representatives, have agreed to an equitable apportionment and use of the water of Caddo Lake and do hereby submit this Compact to amplify the Red River Compact and recommend that it be adopted by their respective legislatures and approved by Congress as hereinafter set forth:

Sec. 1. Purposes

In addition to the purposes specified in the Red River Compact, this compact is intended to preserve and protect Caddo Lake as a valuable environmental, cultural and natural resource and enhance water resource and recreational potentials, while allowing its utilization for water needs of adjacent portions of Louisiana and Texas. A primary means of accomplishing these purposes is to raise the spillway elevation of Caddo Lake to an elevation of 170.5 feet above mean sea level.

Nothing in this Compact shall be deemed to impair or affect the powers, rights, or obligations of the United States or those claiming under its authority in, over, and to water of Caddo Lake; nor shall this Compact be construed as interfering with the application of the National Environmental Policy Act of 1969.¹

¹ 42 U.S.C.A. § 4321 et seq.

Sec. 2. Relation to the Red River Compact

(a) This compact augments and amplifies the Red River Compact. It shall be construed harmoniously with the Red River Compact; it is not intended to amend, replace, or supersede any provisions of the Red River Compact, nor are any of the provisions of the Red River Compact intended to prevent the effective implementation of this Compact.

(b) In the event the Red River Compact is not enacted by all concerned states and ratified by Congress, or in the event that such action occurs after the effective date of this Compact, this Compact shall be fully effective pursuant to the provisions of Section 9.

Sec. 3. Dedication

The States of Louisiana and Texas hereby dedicate the water of Caddo Lake below 167.5 feet above mean sea level to serve as a recreation and navigation pool. Neither Louisiana nor Texas shall allow the diversion or consumptive use of the water of Caddo Lake below that level except as authorized in this Compact.

Sec. 4. Diversion of Dedicated Water

(a) In order to divert water when the level of Caddo Lake is below 167.5 feet above mean sea level, any water user diverting more than 1,000 gallons per day from Caddo Lake must submit water use plans to the Caddo Lake Commission providing for conservation and efficient use of water.

(b) The Caddo Lake Commission shall authorize users with approved water use plans to divert water from Caddo Lake when the lake level is below 167.5 feet above mean sea level, at times and under conditions authorized by the Caddo Lake Commission. The Caddo Lake Commission shall give priority to domestic users, municipalities or municipal use by political subdivisions and industries, in that order.

(c) In the event any user of water from Caddo Lake shall purchase water which is delivered into Caddo Lake from another source, that user making the purchase shall have the use of such purchased water, minus transportation or storage losses if any, as determined by the Commission, free from the regulation of the Caddo Lake Commission.

Sec. 5. Operating Rules

As provided in Section 7, the Caddo Lake Commission shall have the power to establish operating criteria to govern the diversion and use of water from Caddo Lake. Unless modified, supplemented or changed by the Caddo Lake Commission, the following rules shall govern the diversion and use of water from Caddo Lake.

(a) The following operating rules shall be in effect until Caddo Lake is enlarged by raising the spillway level as provided in Section 8.

(1) Whenever water is spilling over the existing spillway at 168.5 feet above mean sea level, each

state may withdraw or divert water from Caddo Lake without restriction.

(2) Whenever Caddo Lake is not spilling over the existing spillway at 168.5 feet above mean sea level, the total consumptive use by each state shall not exceed 8,400 acre-feet during the drawdown period; provided that neither state shall divert more than 3,600 acre-feet during any one month or 4,800 acre-feet during any two consecutive months.

(3) In addition to the requirements of Section 5(a)(2), when the lake level of Caddo Lake is at or below 167.5 feet above mean sea level,

(a) Any diversion by either state must be approved by the Caddo Lake Commission, as provided in Section 4; and,

(b) The total consumptive use by each state shall not exceed an average of 1,000 acre-feet per month, or more than 3,000 acre-feet during any two consecutive months; however,

(c) The limitations above shall not apply to a municipality or political subdivision during an emergency caused by the destruction or contamination of the municipality's or political subdivision's other water source.

(b) The following operating rules shall be in effect after Caddo Lake is enlarged by raising the spillway level as provided in Section 8.

(1) Whenever water is spilling over the raised spillway level, each state may withdraw or divert water from Caddo Lake without restriction.

(2) Whenever Caddo Lake is not spilling over the raised spillway, and the lake surface elevation is above 167.5 feet above mean sea level,

(a) If each state obtains 50% of the water above 168.5 feet above mean sea level, as authorized in Section 8, each state shall be entitled to divert 16,800 acre-feet during a drawdown period.

(b) If each state does not obtain 50% of the water above 168.5 feet above mean sea level, as authorized in Section 8, the total consumptive use by that state shall not be reduced below the amount of water to which it was entitled under Section 5(a).

(3) Whenever Caddo Lake is at or below 167.5 feet above mean sea level, no diversions from Caddo Lake may be made except in the case of a catastrophic event (such as destruction of a municipality or political subdivision's other water supply source or a drawdown which is more severe than the critical drawdown of record). Any emergency withdrawal or diversion must be specifically authorized by the Caddo Lake Commission, as provided in Section 4.

(c) The term 'drawdown' as used herein means that period commencing on the first day water ceases spilling over the existing spillway (or the raised spillway, if Caddo Lake is enlarged as authorized in Section 8) and continuing so long as the Caddo Lake surface elevation continues to fall, until the day when appreciable inflow reaches Caddo

Lake, causing the Caddo Lake surface elevation to rise leading to a spill from Caddo Lake.

Sec. 6. Administration

(a) There is hereby created an interstate administrative agency to be known as the 'Caddo Lake Commission,' also referred to herein as the 'Commission.' It shall be composed of the Commissioners of Louisiana and Texas who serve as Red River Compact Commissioners and an appointed commissioner from each state who resides within one of the parishes or counties in which Caddo Lake is located. The Commissioners shall choose one member of the Commission to serve as a voting chairman. In the event this Compact becomes effective prior to, or without, the Red River Compact, the Governors of Texas and Louisiana shall each appoint three Commissioners to serve as Caddo Lake Commissioners. These Commissioners, or their successors, shall serve until the Red River Compact becomes effective and the offices of the nonlocal commissioners are assumed by the states' Red River Compact Commissioners.

(b) The Commission shall meet and organize within sixty (60) days after the effective date of this Compact. Thereafter, meetings shall be held at such times and places as the Commission shall decide.

(c) Each Commissioner shall have one vote; however, if one or more commissioners from a state is absent, the Commissioner(s) in attendance from that state is authorized to vote on behalf of the absent Commissioner(s) from that state. Any action concerning the administration of this Compact shall require four votes.

(d) The salaries and personal expenses of each state's Commissioners shall be paid by that state.

(e) All expenses incurred by the Commission shall be borne equally by the States of Louisiana and Texas and shall be paid by the Commission out of the 'Caddo Lake Commission Fund'. Such fund shall be initiated and maintained by equal payments of each state into the fund. Disbursements shall be made from the fund in such a manner as may be authorized by the Commission. Such fund shall not be subject to audit and accounting procedures of either state; however, all receipts and disbursements of the fund by the Commission shall be audited by a qualified independent public accountant at regular intervals, and the report of such audits shall be included in and become part of the annual report of the Commission. Each state shall have the right to make its own audit of the accounts of the Commission at any reasonable time.

Sec. 7. Duties and Powers

(a) The Commission shall have the power to:

(1) Adopt rules and regulations governing its operation and enforcement of the terms of the Compact;

(2) Establish and maintain an office for the conduct of its affairs and, if desirable, from time to time, change its location;

(3) Employ or contract with such engineering, legal, clerical and other personnel as it may determine necessary for the exercise of its functions under this Compact without regard to the Civil Service Laws of Louisiana or Texas; provided that such employees shall be paid by and be responsible to the Commission and shall not be considered employees of any state;

(4) Acquire, use and dispose of such real and personal property as it may consider necessary;

(5) Enter into contracts with appropriate state or federal agencies for the collection, correlation and presentation of factual data, for the maintenance of records and for the preparation of reports;

(6) Secure from the head of any department or agency of the federal or state government such information as it may need or deem to be useful for carrying out its functions and as may be available to or procurable by the department or agency to which the request is addressed; provided such information is not privileged and the department or agency is not precluded by law from releasing same;

(7) Make findings, recommendations or reports in connection with carrying out the purposes of this Compact, including, but not limited to, a finding that Louisiana or Texas is or is not in violation of any of the provisions of this Compact. The Commission is authorized to make such investigations and studies, and to hold such hearings as it may deem necessary for said purposes. It is authorized to make and file official certified copies of any of its findings, recommendations or reports with such officers or agencies of Louisiana or Texas or the United States, as may have any interest in or jurisdiction over the subject matter. The making of findings, recommendations, or reports by the Commission shall not be a condition precedent to the instituting or maintaining of any action or proceeding of any kind by Louisiana or Texas, in any court or tribunal, or before any agency or officer, for the protection of any right under this Compact or for the enforcement of any of its provisions; and

(8) Print or otherwise reproduce and distribute its proceedings and reports.

(b) The Commission shall:

(1) Cause to be established, maintained, and operated such stream, reservoir and other gaging stations as are necessary for the proper administration of the Compact;

(2) Cause to be collected, analyzed and reported such information on stream flows, water quality, water storage and such other data as are necessary for the proper administration of the Compact;

(3) Adopt reasonable standards and criteria for the approval of water use plans required by Section 4, and procedures for the submission thereof;

(4) Establish operating criteria to govern the diversion and use of water from Caddo Lake;

(5) Perform all other functions required of it by the Compact and do all things necessary, proper and convenient in the performance of its duties thereunder;

(6) Prepare and submit to the Governors of Louisiana and Texas a budget covering the anticipated expenses of the Commission for the following fiscal year or biennium;

(7) Prepare and submit an annual report to the Governors of Louisiana and Texas and to the President of the United States covering the activities of the Commission for the preceding fiscal year, together with an accounting of all funds received and expended by it in the conduct of its work;

(8) Make available to the governor or to any official agency of Louisiana or Texas or to any authorized representative of the United States, upon request, any information within its possession;

(9) Not incur any obligation in excess of the unencumbered balance of its funds, nor pledge the credit of Louisiana or Texas; and

(10) Make available to Louisiana or Texas or the United States in any action arising under this Compact, without subpoena, the testimony of any officer or employee of the Commission having knowledge of any relevant facts.

Sec. 8. Enlargement of Caddo Lake

(a) It is the intention of Louisiana and Texas to enlarge Caddo Lake by raising the spillway level two feet. Each state has the guaranteed right to obtain 50% of the water above 168.5 feet above mean sea level made available from such an enlargement, subject to paying one-half of the total costs. Total costs of enlargement are equal to the sum of the cost of spillway construction, the cost of land and flowage easements in Texas, the current market value of land and flowage easements in Louisiana, as well as the administrative expenses incurred for each of the above listed items.

(b) Each state may obtain a proportionately larger share of the water resulting from the enlargement by paying the portion of the cost which would otherwise be paid by the other state under Section 8(a).

(c) Should Louisiana, or one of its political subdivisions, unilaterally raise the Caddo Lake spillway level without obtaining flowage easements in Texas, Louisiana would have the right to all water made available by the enlargement; provided, however, this provision constitutes an express waiver of any sovereign immunity or Eleventh Amendment defenses which might otherwise be available to the State of Louisiana in an action for damages by a

Caddo Lake property owner in Texas for damage resulting from such action.

(d) This section does not prevent the enlargement of Caddo Lake by raising the spillway level some amount less than two feet, nor does it prevent a subsequent enlargement of Caddo Lake which might ultimately raise the level of Caddo Lake's spillway more than two feet.

Sec. 9. Ratification and Effective Date of Compact

(a) Notice of ratification of this Compact by the Legislatures of Louisiana and Texas shall be given by the Governor thereof to the Governor of the other state and to the President of the United States. The President is hereby requested to give notice to the Governors of Texas and Louisiana of the consent to this Compact by the Congress of the United States.

(b) This Compact shall become effective, binding and obligatory when, and only when:

(1) It has been duly ratified by Louisiana and Texas;

(2) The Red River Compact has been duly ratified by the State of Texas; and

(3) It has been consented to by an Act of the Congress of the United States, which Act provides that:

Any other statute of the United States to the contrary notwithstanding, in any case or controversy:

which involves the construction or application of this Compact; in which Louisiana or Texas is a plaintiff; and

which is within the judicial power of the United States as set forth in the Constitution of the United States;

and without any requirement, limitation or regard as to the sum or value of the matter in controversy, or of the place of residence or citizenship of, or of the nature, character or legal status of, any of the other proper parties plaintiff or defendant in such case or controversy:

The consent of Congress is given to name and join the United States as a party defendant or otherwise in any such case or controversy in the Supreme Court of the United States if the United States is an indispensable party thereto.

(c) The United States District Courts shall have original jurisdiction (concurrent with that of the Supreme Court of the United States, and concurrent with that of any other federal or state court, in matters in which the Supreme Court, or other court has original jurisdiction) of any case or controversy involving the application or construction of this Compact; that said jurisdiction shall include, but not be limited to, suits between Louisiana and Texas; and that the venue of such case or controversy may be brought in any judicial district in which the acts complained of (or any portion thereof) occur.

SIGNED AND APPROVED THIS 26th DAY
OF JANUARY, 1979.

William M. Huffman
WILLIAM M. HUFFMAN
Marshall, Texas

Ed Howard
SENATOR ED HOWARD
Texarkana, Texas

Fred Parkey
FRED PARKEY
Red River Compact Commis-
sioner for Texas

Don Williamson
SENATOR DON WILLIAMSON
Shreveport, Louisiana

Calhoun Allen
CALHOUN ALLEN
Shreveport, Louisiana

Arthur R. Theis
ARTHUR R. THEIS, Red River
Compact Commissioner for
Louisiana"

[Acts 1979, 66th Leg., p. 750, ch. 330, § 1, eff. June 6, 1979.]

TITLE 4. GENERAL LAW DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 50.001. Definitions

As used in this chapter:

- (1) "District" means any district or authority created by authority of either Article III, Section 52, (Subsection (b), Subdivisions (1) and (2)), or Article XVI, Section 59, of the Texas Constitution.
 (2) "Commission" means the Texas Water Commission.
 (3) "Board" means the governing body of a district.
 (4) "Executive director" means the executive director of the Texas Department of Water Resources.
 (5) "Department" means the Texas Department of Water Resources.

[Acts 1971, 62nd Leg., p. 271, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1535, ch. 557, § 1, eff. June 15, 1973; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.002. Voter Qualifications; Election Procedures

The qualifications of voters in district elections are as specified in the state and federal constitutions and the procedures for conducting elections and for voting are as specified in the Texas Election Code except as otherwise provided in this title or in the special act of the legislature creating the district.

[Acts 1971, 62nd Leg., p. 271, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1535, ch. 557, § 2, eff. June 15, 1973.]

[Sections 50.003 to 50.020 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

§ 50.021. Counties over 500,000: District Accounting System

- (a) This section applies only to a district that:
 (1) is located wholly inside a county having a population of 500,000 or more; and
 (2) is composed of territory less than the whole county.
 (b) The officers of the district shall keep a complete system of accounts. Instead of having the auditing and supervising done by the county auditor, the district may contract with some competent person, firm, or corporation qualified under law to perform this work to audit the cash, books, ac-

counts, records, and vouchers of all officers of the district at least once a year.

(c) One copy of the audit report shall be filed with the governing board of the district and one copy shall be filed with the county auditor. The report shall be kept open to public inspection at all reasonable times.

(d) Other than keeping the audit report on file, the county auditor has no duty in connection with the district.

[Acts 1971, 62nd Leg., p. 271, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.022. Filing Bond

Each member of the governing board of a district created under this code and who is required by law to file an official bond shall file a copy of the bond with the secretary of state within 10 days from the day the bond is required to be filed by law.

[Acts 1971, 62nd Leg., p. 271, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.023. Disqualification of Tax Assessor and Collector

(a) No person may serve as tax assessor and collector of any district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district and created by special act of the legislature if:

(1) he is related within the third degree of affinity or consanguinity to any developer of property in the district, a member of the governing board of the district or the manager, engineer, or attorney for the district;

(2) he is or was within two years immediately preceding the assumption of his assessment and collection duties with the district an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) he owns an interest in or is employed by any corporation organized for the purpose of tax assessment and collection services, a substantial portion of the stock of which is owned by a developer of property within the district, any director, manager, engineer, or attorney for the district; or

(4) he is himself or through a corporation developing land in the district, or is a director, engineer or attorney for the district.

(b) Within 60 days after the governing board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as tax assessor and collector with a person who would not be disqualified.

(c) Any person who wilfully violates the provisions of Subsection (a) of this section is guilty of a

misdemeanor, and on conviction shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

[Acts 1973, 63rd Leg., p. 1536, ch. 558, § 1, eff. June 15, 1973.]

§ 50.024. Election of Board

The election of the members of the governing board of any district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district and created by special act of the legislature, shall be held on the first Saturday in April.

[Acts 1973, 63rd Leg., p. 1539, ch. 559, § 1, eff. June 15, 1973.]

A former § 50.024 was renumbered as § 50.026 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1. See first § 50.026, post.

§ 50.0241. Terms of Office of Directors

(a) Except as provided by Subsection (c) of this section, the members of the board of directors of any district created under a chapter of this title and pursuant to Article III, Section 52(b)(1) or (2), or Article XVI, Section 59, of the Texas Constitution, shall serve for four-year terms.

(b) Except as provided by Chapters 56 and 57 of this code, an election shall be held in each even-numbered year to elect the appropriate number of directors.

(c) This section does not apply to districts created or operating under Chapter 62 of this code.

[Acts 1983, 68th Leg., p. 5212, ch. 951, § 1, eff. Jan. 1, 1984.]

Section 15 of the 1983 Act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 50.025. Service on Districts

The president or the general manager of any district shall be the agent of the district on whom process, notice, or demand required or permitted by law to be served upon the district may be served.

[Acts 1975, 64th Leg., p. 1838, ch. 568, § 1, eff. June 19, 1975.]

§ 50.026. Disqualification of Members of Governing Boards

Text of section as renumbered by Acts 1981, 67th Leg., p. 961, ch. 367, § 1

(a) A person is disqualified from serving as a member of a governing board of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district and created by special act of the legislature if:

(1) he is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the governing board of the district, or the manager, engineer, or attorney for the district;

(2) he is an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) he is a developer of property in the district;

(4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district; or

(5) he is:

(A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the governing board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the governing board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a member of a governing board and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Acts 1973, 63rd Leg., p. 1748, ch. 635, § 1, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 600, ch. 248, § 1, eff. May 20, 1975. Renumbered from § 50.024 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

For text as added by Acts 1981, 67th Leg., p. 3158, ch. 828, § 9, see § 50.026, post

§ 50.026. Emergency Approval of District Projects

Text of section as added by Acts 1981, 67th Leg., p. 3158, ch. 828, § 9

(a) This section applies to all districts created under Article XVI, Section 59, of the Texas Constitution and to which Section 12.081 of this code applies.

(b) If a district experiences an emergency that could lead to a serious health hazard or unreasonable economic loss to the district, the executive director shall have the authority to authorize approval of repairs necessary to correct the damaged system by negotiated bids if completion time of the repairs is of the essence to preclude serious health hazards or unreasonable economic loss to the district.

[Acts 1981, 67th Leg., p. 3158, ch. 828, § 9, eff. June 17, 1981.]

For text as renumbered by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, see § 50.026, ante

[Sections 50.027 to 50.050 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

§ 50.051. Special Law Districts: Powers of Officers

In any district or authority that is created by legislative act under Article XVI, Section 59, of the Texas Constitution, and that has the power to provide a water supply for municipal or other uses, the directors, employees, and engineers have the same authority with respect to making surveys and attending to other business of the district or authority that directors, employees, and engineers of a water control and improvement district have under Chapter 51 of this code.

[Acts 1971, 62nd Leg., p. 272, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.052. Costs of Relocation of Property

(a) If any district or authority organized under the provisions of Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, in the exercise of the power of eminent domain, the police power, or any other power requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any highway, railroad, electric transmission, telegraph, or telephone lines, conduits, poles, properties, facilities, or pipelines, the relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be done at the sole expense of the district or authority.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

(c) This section shall not be applicable to those projects under construction or financed or for which bonds have been voted and approved by the acts of any district on the effective date of this Act, unless the provisions hereinabove are contained in the acts of the district authorizing said construction or financing.

[Acts 1971, 62nd Leg., p. 1771, ch. 518, § 17, eff. May 31, 1971.]

§ 50.053. Notice of Bond Sale

(a) Except for refunding bonds, bonds sold to a state or federal agency, and bonds registered with any federal agency, after any bonds are finally authorized and before they are sold by a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district and created by special act of the legislature, the governing board of the district shall publish an appropriate notice of the sale:

(1) at least one time not less than 10 days before the date of sale in a newspaper of general circulation which is published in the county or counties in which the district is located; and

(2) at least one time in one or more recognized financial publications of general circulation in the state as approved by the attorney general.

(b) If a newspaper publication required by Subdivision (1), Subsection (a), of this section is not published in the county, then notice may be published in any newspaper of general circulation in such county.

[Acts 1973, 63rd Leg., p. 615, ch. 262, § 1, eff. Aug. 27, 1973.]

A former § 50.053 was renumbered § 50.057 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1. See § 50.057, post

§ 50.054. Records

Each district covered by the provisions of Section 50.053 of this code shall preserve its minutes, con-

tracts, records, notices, accounts, receipts, and records of all kinds or certified copies of all of these in a safe place in the district office located in the district. These minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection. [Acts 1973, 63rd Leg., p. 617, ch. 263, § 1, eff. Aug. 27, 1973.]

§ 50.055. Fire Departments

(a) A district may establish, operate, and maintain a fire department to perform all fire-fighting activities within the district as provided in this section and may issue, with voter approval, bonds for financing the establishment of the fire department including the construction and purchase of necessary buildings, facilities, and equipment and the provision of an adequate water supply.

(b) After approval of the district electors of a plan to operate or jointly operate a fire department, the district or districts shall provide an adequate system and water supply for fire-fighting purposes and may construct and purchase necessary buildings, facilities, and equipment and may employ all necessary personnel including supervisory personnel to operate the fire department.

(c) Bonds issued for establishment of the fire department shall be authorized and issued, and a district shall be authorized to levy a tax to pay the principal of and interest on such bonds, as provided by law for authorization and issuance of other bonds of the district.

(d) Two or more districts may contract to operate a joint fire department for their districts and shall include in the contract a system for joint administration and operation of the fire department, the extent of services to be provided, a method for funding the department from funds of each district, and any other terms and conditions the parties consider necessary.

(e) A district may contract with any other person to perform fire-fighting services within the district.

(f) Before a district establishes a fire department, contracts to operate a joint fire department, or contracts with another person to perform fire-fighting services within the district, the district must comply with the provisions of Subsections (g), (h), and (i) of this section.

(g) A district or districts proposing to act jointly shall develop a detailed plan for the establishment, operation, and maintenance of the proposed department, including a detailed presentation of all financial requirements. If a district is entering into a contract under Subsection (e) of this section, the district shall develop a plan that describes in detail the facilities and equipment to be devoted to service to the district and all proposals for providing the service and that includes a presentation of the financial requirements under the contract. Before adoption of a plan and any contract by the district,

the governing board of the district shall hold a hearing at which any person residing in the district may present testimony for and against the proposed plan and any proposed contract. Notice of the hearing and the place at which the plan and any contract may be examined shall be posted in two public places within the district at least 10 days before the date of the hearing.

(h) After adoption of the plan and any contract by the governing board, the plan and financial presentation, together with any contract and a written report in a form prescribed by the executive director describing existing fire departments and fire-fighting services available within 25 miles of the boundaries of the district, shall be submitted to the executive director for consideration by the commission under rules adopted by the board. Before approval or disapproval, the commission shall hold a hearing. Notice of the hearing before the commission shall be posted by the governing board of the district in at least two public places in the district at least five days before the hearing. Before the commission approves the application, it must find that it is economically feasible for the district to implement the plan and meet the provisions of any contract and shall take into consideration in giving its approval the general financial condition of the district and the economic feasibility of the district carrying out the plan or meeting the obligations of the contract.

(i) After approval by the commission, the district shall submit to the electors of the district at the election to approve bonds for financing the plan, or if no bonds are to be approved, at an election called for approval of the plan, the proposition of whether or not the plan should be implemented or entered into by the district. The ballots at the election shall be printed, as applicable, to provide for voting for or against the proposition: "The implementation of the plan for (operation/joint operation) of a fire department"; or "The plan and contract to provide fire-fighting services for the district."

(j) No funds of the district may be used to establish a fire department, to enter into joint operation of a fire department, or to contract for fire-fighting services without the approval of a plan by the electors as provided in this section. However, the district may use available funds for preparation of a plan and any contract.

[Acts 1977, 65th Leg., p. 1404, ch. 568, § 1. Amended by Acts 1979, 66th Leg., p. 2185, ch. 834, § 2, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2067, ch. 457, § 2, eff. Aug. 31, 1981.]

Section 2 of the 1977 Act provided:

"This Act takes effect only on adoption by the qualified electors of the constitutional amendments proposed in H. J. R. No. 42 of the 65th Legislature."

H.J.R. No. 42 was approved by the voters in an election held November 7, 1978.

Sections 1 and 3 of the 1981 amendatory act provide:

"Sec. 1. The purpose of this Act is to confirm the intent of the legislature to authorize the levy, by districts and authorities organized under Article III, Section 52, or Article XVI, Section 59, of the

Texas Constitution, of a tax to provide for payment of the principal of and interest on bonds issued pursuant to Section 50.055, Water Code, as amended, to the same extent as authorized to pay other bonds issued by such districts. No substantive modification to existing law is intended."

"Sec. 3. All plans, approvals, elections, contracts, bond issues, tax levies, and other proceedings adopted, given, held, executed, delivered, or otherwise initiated or undertaken prior to the effective date of this Act and subsequent to the effective date of Section 50.055, Water Code, as amended, are validated to the extent the same are consistent with the provisions of such Section 50.055 as amended by this Act."

§ 50.056. Prohibited Charges and Fees

(a) In this section, "undeveloped property" means property within the district to which water or sewer services are actually available and to which no water or sewer connections have been made.

(b) Except as provided in Subsection (c) of this section, no water control and improvement district or municipal utility district in which the ratio of the assessed valuation of property to the amount of bonded indebtedness of the district is at least 15 to 1, which is created by special act of the legislature and which proposes to provide or actually provides water and sewer services or either of these services to household users as the principal function of the district, may adopt and impose on the owners of undeveloped property in the district a charge or fee on the undeveloped property that is in addition to taxes levied by the district on that property.

(c) If the governing board of a district covered by this section desires to adopt and impose a charge or fee prohibited by Subsection (b) of this section, it shall submit to the commission a petition for authority to adopt and impose the charge or fee. If the commission finds that it will be in the best interest of the district and property owners of the district, the commission shall approve the adoption and imposition of the charge or fee for a period of not more than three years. The imposition of a charge or fee may be renewed for additional periods of three years in the manner provided in this section for initial approval of the charge or fee.

[Acts 1979, 66th Leg., p. 437, ch. 198, § 1, eff. Jan. 1, 1980.]

Section 2 of Acts 1979, 66th Leg., ch. 198, provided:

"This Act shall not apply to districts which do not as a principal function provide water and sewer services or either of these services to household users."

§ 50.057. District Office

(a) Each district created by special act of the legislature, proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district, after at least 25 qualified electors are residing in the district, shall maintain a district office located within the district, and on majority vote of the governing board at a public meeting, may maintain an office outside the district.

(b) After at least 25 qualified electors are residing in a district, on written request of at least five of these electors, the board shall designate a meet-

ing place within the district. On the failure to designate the location of the meeting place within the district, five electors may petition the commission to designate a location, which may be changed by the board after the next election of members to the board.

[Acts 1973, 63rd Leg., p. 617, ch. 263, § 1, eff. Aug. 27, 1973. Renumbered from § 50.053 by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.058. Operation of Certain Motor Vehicles On or Near Public Water Facilities

(a) In this section, "motor vehicle" means a self-propelled device in, upon, or by which a person or property is or may be transported or drawn on a road or highway.

(b) Except as provided in Subsections (c) and (d) of this section, a person may not operate a motor vehicle on a levee, in a drainage ditch, or on land adjacent to a levee, canal, ditch, exposed conduit, pumping plant, or other facility for the transmission or storage of water or sewage that is owned or controlled by a district.

(c) A district may authorize the use of motor vehicles on land that it owns or controls by posting signs on the property.

(d) This section does not prohibit a person from:

- (1) driving on a public road or highway; or
- (2) operating a motor vehicle that is being used for repair or maintenance of public water facilities.

(e) A person who operates a motor vehicle in violation of Subsection (b) of this section commits an offense. An offense under this section is a Class C misdemeanor, except that if a person has been convicted of an offense under this section, a subsequent offense is a Class B misdemeanor.

[Acts 1979, 66th Leg., p. 1395, ch. 621, § 1, eff. Sept. 1, 1979. Renumbered from § 50.056 by Acts 1983, 68th Leg., p. 1044, ch. 235, art. 8, § 1, eff. Sept. 1, 1983.]

§ 50.059. Compensation and Expenses of River Authority Directors

(a) Each director of a board of directors of a river authority of the state created by the legislature by special law pursuant to the provisions of Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution shall receive as fees of office not more than \$100 for each day of service necessary to discharge his duties, plus actual expenses, if and only if the compensation and expenses are approved by vote of the board of directors.

(b) Each director shall file with the secretary or treasurer of the authority a statement showing the amount due him each month or as soon thereafter as practicable before a check may be issued for the fees and expenses.

[Acts 1983, 68th Leg., p. 1044, ch. 235, art. 8, § 2(a), eff. Sept. 1, 1983.]

[Sections 50.060 to 50.100 reserved for expansion]

SUBCHAPTER D. REPORTS TO
EXECUTIVE DIRECTOR

§ 50.101. Order or Act Creating District

Within 60 days after the date a district is created, the district shall file with the executive director a certified copy of the order or legislative act creating the district or authorizing its creation.

[Acts 1971, 62nd Leg., p. 272, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

§ 50.102. Boundary Change

Within 60 days after the date of any boundary change, a district shall file with the executive director a certified copy of the order of the district's governing body changing the boundaries.

[Acts 1971, 62nd Leg., p. 272, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

§ 50.103. List of Directors

(a) After any election or selection of a director, a district shall notify the executive director within 30 days after the date of the election of the name of the director chosen and the date on which his term of office expires.

(b) If there is a change of directors due to resignation or death, the district shall immediately notify the executive director of the name of the newly elected or appointed member.

[Acts 1971, 62nd Leg., p. 272, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

§ 50.104. Audit Report

(a) Within 15 days after the date any audit of its affairs is completed, a district shall file a copy of the audit report with the executive director and with the county clerk of the county in which the district's headquarters are located.

(b) This section applies only to those districts whose audit is performed by the state auditor.

[Acts 1971, 62nd Leg., p. 272, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

§ 50.105. Information Open to Public

The executive director shall adopt a system for filing the information required by Sections 50.101-50.104 of this code, and shall allow public inspection of this file during the office hours of the department.

[Acts 1971, 62nd Leg., p. 272, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

§ 50.106. Penalty

A district that fails to comply with the provisions of Sections 50.101-50.104 of this code is subject to a civil penalty of not less than \$50 nor more than \$100 a day for each day the district willfully continues to violate these sections after receipt of written notice of violation from the executive director by certified mail, return receipt requested. The state may sue to recover the penalty.

[Acts 1971, 62nd Leg., p. 273, ch. 58, § 1, eff. Aug. 30, 1971. Acts 1973, 63rd Leg., p. 1531, ch. 554, § 1, eff. June 15, 1973; Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 41, eff. June 10, 1981.]

§ 50.107. Commission Approval of Issuance of District Bonds

Notwithstanding any provision of this code to the contrary, the commission may approve the issuance of bonds of a district without the submission of plans and specifications of the improvements to be financed with the bonds, if the bond proceeds which are to be used to finance the improvements for which plans and specifications are not submitted are deposited in escrow with a bank under terms and conditions ordered by the commission. The bond proceeds held in escrow shall be released to the district when plans and specifications are submitted to and approved by the commission.

[Acts 1981, 67th Leg., p. 2788, ch. 754, § 1, eff. June 16, 1981.]

[Sections 50.108 to 50.150 reserved for expansion]

SUBCHAPTER E. CONDEMNATION
OF CEMETERIES

§ 50.151. Power to Condemn Cemeteries

The use of land for the construction of dams and creation of lakes and reservoirs for the purpose of conservation and development of the natural resources of this state is hereby declared to be superior to all other uses; and for these purposes a district created under Article XVI, Section 59, of the Texas Constitution, has the power of eminent domain to acquire land, improvements, and other property owned and held for cemeteries or burial places that is necessary for the construction of a dam or that lies inside the area to be covered by the lake or reservoir or within 300 feet of the high-water line of the lake or reservoir.

[Acts 1971, 62nd Leg., p. 273, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.152. Condemnation Procedure

Except as otherwise provided by this subchapter, the procedure in condemnation proceedings is governed by Title 52, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1971, 62nd Leg., p. 273, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.153. Notice

(a) The notice provided by Article 3264, Revised Civil Statutes of Texas, 1925, shall be served on the title owner of the land on which the cemetery is situated.

(b) General notice to persons having relatives interred in the cemetery shall be given by publication for two consecutive weeks in a newspaper published in the English language in the county in which the cemetery is situated. If there is no newspaper published in the English language in the county, notice shall be given by publication in a newspaper in the nearest county in which such a newspaper is published.

[Acts 1971, 62nd Leg., p. 273, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.154. Measure of Damages

The measure of damages in these eminent domain proceedings shall be assessed as in other cases. An additional amount of damages shall be assessed to cover the cost of removing and reintering the bodies interred in the cemetery or burial place and the cost of removing and resetting the monuments or markers erected at the graves.

[Acts 1971, 62nd Leg., p. 273, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.155. Disposition of Additional Assessment

The additional assessment shall be deposited in the registry of the county court and disbursed only for the purpose of removing and reintering the bodies in other cemeteries in Texas agreed on between the district and the relatives of the deceased persons.

[Acts 1971, 62nd Leg., p. 273, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.156. Designation of Cemetery for Reinterment

If in any case the district and the relatives of a deceased person cannot agree within 30 days on a cemetery for reinterment, or no relatives appear within that time, then the county judge shall designate the cemetery for reinterment.

[Acts 1971, 62nd Leg., p. 274, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.157. Bond

Instead of depositing the additional assessment in the registry of the court, the district may execute a bond sufficient to cover costs of removing and reintering the bodies. The bond shall be payable to and approved by the county judge and conditioned that the bodies will be removed and reintered as provided by this subchapter.

[Acts 1971, 62nd Leg., p. 274, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 50.158 to 50.200 reserved for expansion]

SUBCHAPTER F. ANNEXATION

§ 50.201. Description of Annexed Land

If a district annexes land, the land to be annexed must be described by metes and bounds, or by lot and block number if there is a recorded map or plat and survey of the land.

[Acts 1971, 62nd Leg., p. 274, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 50.202 to 50.250 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF INACTIVE DISTRICTS

§ 50.251. Dissolution Authority

After notice and hearing, the commission may dissolve any district which is inactive for a period of five consecutive years and has no outstanding bonded indebtedness.

[Acts 1971, 62nd Leg., p. 274, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.252. Notice of Hearing

(a) The commission shall give notice of the dissolution hearing which briefly describes the reasons for the proceeding.

(b) The notice shall be published once each week for two consecutive weeks before the day of hearing in some newspaper having general circulation in the county or counties in which the district is located. The first publication shall be 30 days before the day of the hearing.

(c) The commission shall give notice of the hearing by first class mail addressed to the directors of the district according to the last record on file with the executive director.

[Acts 1971, 62nd Leg., p. 274, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 11, eff. June 10, 1981.]

§ 50.253. Investigation

The executive director shall investigate the facts and circumstances of the district to be dissolved and the result of the investigation shall be included in a written report.

[Acts 1971, 62nd Leg., p. 274, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.254. Order of Dissolution

The commission may enter an order dissolving the district at the conclusion of the hearing if it finds that the district has performed none of the functions for which it was created for a period of five consecutive years before the day of the proceeding

and that the district has no outstanding bonded indebtedness.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.255. **Certified Copy of Order**

The commission shall file a certified copy of the order of dissolution of the district in the deed records of the county or counties in which the district is located. If the particular district was created by special act of the legislature, the commission shall file a certified copy of the order of dissolution with the secretary of state.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.256. **Appeals**

(a) Appeals from a commission order dissolving a district shall be filed and heard in the district court of any of the counties in which the land is located.

(b) The trial on appeal shall be de novo and the substantial evidence rule shall not apply.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.257. **Assets Escheat to State**

Upon the dissolution of a district by the commission, all assets of the district shall escheat to the State of Texas. The assets shall be administered by the state treasurer and shall be disposed of in the manner provided by Article 3272a, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1977, 65th Leg., p. 1510, ch. 610, § 1, eff. Aug. 29, 1977.]

§ 50.258. **Water Control and Preservation Districts**

Chapter 3, Title 128, Revised Statutes,¹ and Chapter 2, page 705, General Laws, Acts of the 46th Legislature, Regular Session, 1939 (Article 7880a, Vernon's Texas Civil Statutes), are repealed, except that those laws are continued in effect for the sole purpose of the administration and operation of any water control and preservation district created under those laws.

[Acts 1983, 68th Leg., p. 1045, ch. 235, art. 8, § 3, eff. Sept. 1, 1983.]

¹ Water Auxiliary Laws, art. 7808 et seq.

[Sections 50.259 to 50.270 reserved for expansion]

SUBCHAPTER H. WATER SUPPLY CONTRACTS

§ 50.271. **Definition**

As used in this subchapter, "eligible district" means any district or authority created under Article XVI, Section 59, of the Texas Constitution, and any corporation formed under the provisions of Chapter 76, Acts of the 43rd Legislature, 1st Called

Session, 1933, as amended (Article 1434a, Vernon's Texas Civil Statutes).

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.272. **Authorization to Contract**

Any eligible district may contract with any other eligible district for the purpose of supplying water to the other eligible district.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.273. **Restriction on Water from Another Source**

Any contract authorized under this subchapter may provide that the eligible district purchasing water shall not obtain water from any other source except to the extent provided in the contract.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.274. **Period and Terms**

The parties may determine the terms and time of the contract and may provide that it shall continue in effect until bonds specified in it and bonds issued to refund these bonds are paid.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.275. **Approval by the Commission**

No contract shall be final until approved by the commission if the source of water to be provided under the provisions of this subchapter is public surface water.

[Acts 1971, 62nd Leg., p. 275, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.276. **Duty to Revise Rate of Compensation**

Any water supply contract authorized under this subchapter shall be subject to the statutory or the contractual duty of the eligible district supplying water under it from time to time to revise the rate of compensation for water sold and services rendered by it so that the net revenues of the eligible district will at all times be sufficient to enable it to pay its operation and maintenance expense and to pay the principal of and interest on bonds secured by the contract to the extent provided in the resolution or order authorizing the bonds.

[Acts 1971, 62nd Leg., p. 276, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 50.277. **Source of Payments**

Payments to be made by an eligible district under a water supply contract shall be paid from the revenue of and constitute an operating expense of the eligible district's water system.

[Acts 1971, 62nd Leg., p. 276, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 50.278 to 50.300 reserved for expansion]

SUBCHAPTER I. NOTICE

§ 50.301. Notice to Purchasers

(a) Any person who sells or conveys real property located in a district which was created under this title or by special act of the legislature, which is providing or proposing to provide, as the district's principal function, water and sewer services, or either of these services, to household users, and which, if located within the corporate area of a city, includes less than 75 percent of the incorporated area of the city or which is located outside the corporate area of a city in whole or in substantial part, must first give to the purchaser the written notice provided in this section.

(b) The prescribed notice shall be a separate written document executed and acknowledged by the seller and shall read as follows:

"The real property, described below, which you are about to purchase is located in the _____ District. The district has taxing authority separate from any other taxing authority, and may, subject to voter approval, issue an unlimited amount of bonds. As of this date, the most recent rate of taxes levied by the district on real property located in the district is \$_____ on each \$100 of assessed valuation. The total amount of bonds which has been approved by the voters and which have been or may, at this date, be issued is \$_____. The purpose of this district is to provide water and sewer services within the district through the issuance of bonds payable from property taxes and user charges. The cost of these utility facilities is not included in the purchase price of your property, and these utility facilities are owned by the district. The legal description of the property which you are acquiring is as follows:

Date

Signature of Seller

"The undersigned purchaser hereby acknowledges receipt of the foregoing notice prior to closing of the purchase of the real property described in such notice.

(Date)

Signature of Purchaser

"(Note: Correct district name, tax rate, bond amount, and legal description are to be placed in the appropriate space by seller. Correct acknowledgments shall be provided for both seller and purchaser below. If the district does not propose to provide water and sewer services, the appropriate purpose may be eliminated.)"

(c) The notice required by this section shall be given to the purchaser at or prior to the final closing of the sale and purchase.

(d) The purchaser shall sign and acknowledge the notice to evidence the receipt of notice.

(e) The notice, following execution, acknowledgment, and closing of purchase and sale shall be recorded in the deed records of the county in which the property is located.

(f) For the purposes of this section, an executory contract of purchase and sale having a performance period of more than six months shall be considered a sale under Subsection (a) of this section.

(g) All sellers, and all persons completing the prescribed notice in the sellers' behalf, shall be entitled to rely on the information contained in or shown on the information form and map or plat filed by the district under Section 50.302 of this code in completing the prescribed form. Any information taken from the information form or map or plat filed by the district shall be for purposes of this section conclusively presumed as a matter of law to be correct. All subsequent sellers, purchasers, title insurance companies, examining attorneys, and lienholders shall be entitled to rely upon the information form and map or plat filed by the district.

(h) A purchaser, his heirs, successors, or assigns, shall not be entitled to maintain any action for damages or maintain any action against a seller, title insurance company, or lienholder by reason of use by the seller of the information filed for record by the district or reliance by the seller on the filed plat and filed legal description of the district in determining whether the property to be sold and purchased is within the district. No action may be maintained against any title company for failure to disclose the inclusion of the described real property within a district when the district has not filed for record the information form, map, or plat with the county clerk.

(i) Any purchaser who purchases any real property in a district and who thereafter sells or conveys the same shall on closing of such subsequent sale be conclusively considered as having waived any prior right to damages under this section for his prior purchase.

(j) It is the express intent of this section that all sellers, title insurance companies, examining attorneys, and lienholders shall be entitled to rely on the information form and map or plat as last filed by each district.

(k) If any sale or conveyance of real property within a district is not made in compliance with the provisions of this section, the purchaser may institute a suit for damages under the provisions of either Subsection (l) or Subsection (m) of this section.

(l) A purchaser of real property covered by the provisions of this section, if the sale or conveyance

of the property is not made in compliance with this section, may institute a suit for damages in the amount of all cost relative to the purchase of the property plus interest and reasonable attorney's fees. The suit for damages may be instituted jointly or severally against the person, firm, corporation, partnership, organization, business trust, estate, trust, association, or other legal entity which sold or conveyed the property to the purchaser. Following the recovery of damages under this subsection, the amount of the damages shall first be paid to satisfy all unpaid obligations on each outstanding lien or liens on the property and the remainder of the damage amount shall be paid to the purchaser. On payment of all damages respectively to the lienholders and purchaser, the purchaser shall reconvey the property to the seller.

(m) A purchaser of real property covered by the provisions of this section, if the sale or conveyance of the property is not made in compliance with this section, may institute a suit for damages in an amount of not to exceed \$5,000, plus reasonable attorneys' fees.

(n) A purchaser is not entitled to recover damages under both Subsections (l) and (m) of this section, and entry of a final decision awarding damages to the purchaser under either Subsection (l) or Subsection (m) of this section shall preclude the purchaser from recovering damages under the other subsection. Any action for damages shall not, however, apply to, affect, alter, or impair the validity of any existing vendor's lien, mechanic's lien, or deed of trust lien on the property.

(o) A suit for damages under the provisions of this section must be brought within 90 days after the purchaser receives his first district tax notice or within four years after the property is sold or conveyed to the purchaser, whichever time occurs first, or the purchaser loses his right to seek damages under this section.

(p) Notwithstanding any provisions of this subchapter to the contrary, a purchaser may not recover damages of any kind under this section if he:

- (1) purchases an equity in real property and in conjunction with the purchase assumes any liens, whether purchase money or otherwise; and
- (2) does not require proof of title by abstract, title policy, or any other proof of title.

[Acts 1973, 63rd Leg., p. 1542, ch. 560, § 1, eff. Aug. 27, 1973.]

§ 50.302. Filing Information

(a) The governing board of any district covered by the provisions of Section 50.301 of this code shall file with the county clerk in each of the counties in which all or part of the district is located a duly affirmed and acknowledged information form which includes the information required in Subsection (b) of this section, and a complete and accurate map or plat showing the boundaries of the district.

(b) The information form filed by a district under this section shall include:

- (1) the name of the district;
- (2) the complete and accurate legal description of the boundaries of the district;
- (3) the most recent rate of district taxes on property located in the district;
- (4) the total amount of bonds which have been approved by the voters and which may be issued by the district;
- (5) the date on which the election to confirm the creation of the district was held if such was required; and
- (6) a statement of the functions performed or to be performed by the district.

(c) The information form and map or plat required by this section shall be signed by a majority of the members of the governing board of the district and by each such officer affirmed and acknowledged before it is filed with the county clerk, and each amendment made to an information form or map shall also be signed by the members of the governing board of the district and by each such officer affirmed and acknowledged before it is filed with the county clerk.

(d) The information form required by this section shall be filed with the county clerk within 48 hours after the effective date of this section or within 48 hours after the district is officially created, whichever time comes first. For purposes of this section, the words "officially created" mean the date and hour in which the results of the election to confirm the creation of the district are declared.

(e) Within seven days after there is a change in any of the information contained in the district information form or map or plat, the district shall file an amendment to the information form or map setting forth the changes made.

(f) Any person who affirms the corrections and accuracy of and acknowledges an information form, map, or plat, or any amendment to an information form or map or plat which includes information which is inaccurate or incorrect shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$1,000 for each violation.

(g) If a district fails to file the information required by this section in the time required, the executive director, on his own or on request by any person, may request the attorney general, or the district or the county attorney of the county in which the district is located to seek a writ of mandamus to force the governing board of the district to prepare and file the necessary information.

(h) Any member of a governing board who wilfully fails or refuses to join in filing an information form, map, plat, or amendment to an information form, map, or plat under this section shall be guilty of a misdemeanor and shall be fined not less than \$100 nor more than \$1,000 for each violation. A member of a governing board is presumed to have

wilfully failed or refused to join in the filing of an information form, map, plat, or amendment to an information form, map, or plat, if he was present at the meeting at which the information included in the information form, map, plat or amendment to the information form, map, or plat was adopted.

(i) If a district covered by the provisions of this section is dissolved, annexed to another local government or is consolidated with another district, the members of the governing board shall file a statement of this fact together with the effective date of the dissolution, annexation, or consolidation with the information form. After a district is dissolved and the statement is filed under this subsection, a person who sells or conveys property within the dissolved district is no longer required to give notice under Section 50.301 of this code.

(j) A copy of all information forms, maps, plats, and amendments to these filed under this section shall also be filed with the executive director.

[Acts 1973, 63rd Leg., p. 1541, ch. 560, § 1, eff. Aug. 27, 1973. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 12, eff. June 10, 1981.]

§ 50.303. Posting Notice in the District

(a) Any district created under this title or by special act of the legislature, which is providing or proposing to provide, as the district's principal function, water and sewer services, or either of these services to household users, shall, within 30 days after the effective date of this section or the creation of the district, post signs indicating the existence of the district at at least two principal entrances to the district.

(b) The size and exact location of and the information contained on the signs shall be determined by the executive director.

[Acts 1975, 64th Leg., p. 246, ch. 96, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 13, eff. June 10, 1981.]

SUBCHAPTER J. GENERAL DISTRICT CREATION PROVISIONS

§ 50.331. Copies of Creation Petitions

In addition to other requirements of this code for the creation of districts including districts created by special act of the legislature, a copy of the petition to create a district including a district created by special act of the legislature shall be mailed to any city in whose extraterritorial jurisdiction all or part of the proposed district is located and to the commissioners court of any county in which all or part of the proposed district is located.

[Acts 1973, 63rd Leg., p. 490, ch. 214, § 1, eff. May 28, 1973.]

[Sections 50.332 to 50.370 reserved for expansion]

SUBCHAPTER K. AUDIT OF DISTRICTS

§ 50.371. Duty to Audit

(a) The governing board of each district created under the general law or by special act of the legislature shall have the district's fiscal accounts and records audited annually at the expense of the district.

(b) In all areas of conflict the provisions of this subchapter shall take precedence over all prior statutory enactments.

(c) The person who performs the audit shall be a certified public accountant or public accountant holding a permit from the Texas State Board of Public Accountancy.

(d) If a river authority does not elect to have the fiscal accounts audited by an independent public accountant or a certified public accountant, the state auditor shall audit the authority in the manner provided by law for state government audits.

(e) The audit required by this section shall be completed within 120 days after the close of the district's fiscal year, except for districts audited by the state auditor; district audits by the state auditor shall be completed within 12 months of the close of the district's fiscal year.

[Acts 1973, 63rd Leg., p. 1533, ch. 556, § 1, eff. June 15, 1973. Amended by Acts 1975, 64th Leg., p. 624, ch. 255, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 68, ch. 35, § 1, eff. Aug. 29, 1977; Acts 1983, 68th Leg., p. 1045, ch. 235, art. 8, § 4(a), eff. Sept. 1, 1983.]

§ 50.372. Form of Audit

The executive director shall adopt an accounting and auditing manual, and except as otherwise provided by this manual, the audit shall be performed according to the generally accepted auditing standards adopted by the American Institute of Certified Public Accountants, hereinafter referred to as generally accepted auditing standards, and shall include the auditor's representation that the financial statements have been prepared in accordance with generally accepted accounting principles as adopted by the American Institute of Certified Public Accountants, hereinafter referred to as generally accepted accounting principles.

[Acts 1973, 63rd Leg., p. 1533, ch. 556, § 1, eff. June 15, 1973. Amended by Acts 1977, 65th Leg., p. 68, ch. 35, § 2, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.373. Depository and Treasurer's Reports

The district depository and the district treasurer, if any, who receives or has control over any district funds shall keep a full and itemized account of district funds in its or his possession. The deposito-

ry's and treasurer's itemized accounts and records shall be available for audit.

[Acts 1973, 63rd Leg., p. 1533, ch. 556, § 1, eff. June 15, 1973.]

§ 50.374. Filing of Audits, Affidavits, and Financial Reports

(a) After the governing board of the district has approved the audit, it shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year unless the audit is performed by the state auditor, in which case it will be filed in accordance with Section 50.104 of this code.

(b) If the governing board of the district refuses to approve the annual audit report, the governing board shall submit a copy of the report to the executive director for filing within 135 days after the close of the district's fiscal year, except as specified in Subsection (a) of this section, accompanied by a statement from the board explaining the reasons for its failure to approve the report.

(c) Copies of the audit or the annual financial dormancy affidavit or annual financial report described in Sections 50.377 and 50.378 of this code shall be filed annually in the office of the district and with the city secretary or other designated city official in whose extraterritorial jurisdiction the district is located. If the district is not located within the extraterritorial jurisdiction of a city, the audit, annual financial dormancy affidavit, or annual financial report shall be filed annually with the clerk of the county within which the district is located; provided, however, this subsection shall not apply to any district which is located within all or parts of more than two counties; however, each such district shall file a copy of its annual audit, annual financial dormancy affidavit, or annual financial report with the county clerk of the county within which the greater part of the district resides.

(d) Each district shall file with the executive director an annual filing affidavit in a format prescribed by the executive director, executed by the current president or chairman of the board, a member of the board designated by the presiding officer, the attorney representing the district, or by a county judge who is presiding as chairman of the governing board, stating that all copies of the annual audit report, annual financial dormancy affidavit, or annual financial report have been filed under this section.

(e) The annual filing affidavit shall be submitted with the applicable annual document when it is submitted to the executive director for filing as prescribed by this subchapter.

(f) The executive director shall file with the attorney general the names of any districts that do not comply with the provisions of this subchapter.

(g) Any district that violates the provisions of this subchapter is subject to a civil penalty of not less

than \$50 nor more than \$100 a day for each act of violation and for each day a violation continues. Before a district is subject to the penalty provided in this subsection, it must continue to violate this subchapter after receipt of written notice of violation from the executive director sent by certified mail, return receipt requested.

[Acts 1973, 63rd Leg., p. 1533, ch. 556, § 1, eff. June 15, 1973. Amended by Acts 1975, 64th Leg., p. 247, ch. 97, § 1, eff. Sept. 1, 1975; Acts 1975, 64th Leg., p. 624, ch. 255, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 68, ch. 35, § 3, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.375. Review by Executive Director

(a) The executive director shall review the audit report of each district, and if the executive director has any objections or determines any violations of generally accepted auditing standards or accounting principles, statutes, or board rules, or if the executive director has any recommendations, he shall notify the governing board of the district.

(b) Before the audit report may be accepted by the executive director as being in compliance with the provisions of this subchapter, the governing board and the auditor shall remedy objections and correct violations of which they have been notified by the executive director.

(c) If the audit report indicates that any penal law has been violated, the executive director shall notify the appropriate county or district attorney and the attorney general.

[Acts 1973, 63rd Leg., p. 1533, ch. 556, § 1, eff. June 15, 1973. Amended by Acts 1977, 65th Leg., p. 69, ch. 35, § 4, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.376. Access to and Maintenance of District Records

(a) The executive director shall have access to all vouchers, receipts, district fiscal and financial records, and other district records which the executive director considers necessary for the review, analysis, and approval of an audit report.

(b) All district fiscal records shall be prepared on a timely basis and maintained in an orderly manner in accordance with generally accepted accounting principles. The fiscal records shall be available for public inspection during regular business hours. A district's fiscal records may be removed from the district's office for the purpose of recording its fiscal affairs and for preparing an audit, during which time the fiscal records are under the control of the district's auditor. Those districts proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district and having at least 100 qualified electors residing in the

district shall maintain all district fiscal records in a district office located in the district.

[Acts 1973, 63rd Leg., p. 1533, ch. 556, § 1, eff. June 15, 1973. Amended by Acts 1977, 65th Leg., p. 69, ch. 35, § 5, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 980, ch. 367, § 14, eff. June 10, 1981.]

§ 50.377. Financially Dormant Districts

(a) Those districts which can satisfy the criteria contained in this section may elect to submit to the executive director for filing a financial dormancy affidavit in lieu of compliance with Section 50.371 of this code:

(1) the district had no revenue from operations, tax assessments, or any other sources during the calendar year;

(2) the district had no expenditures of funds during the calendar year; and

(3) the district had no bonds or any other liabilities outstanding during the calendar year.

(b) The required annual calendar year affidavit shall be prepared in a format prescribed by the executive director and shall be submitted for filing by the district's current president or chairman of the board, a member of the board designated by the presiding officer, its attorney, or by a county judge who is presiding as chairman of the governing board.

(c) The affidavit must be filed annually on or before January 31 with the executive director and other governmental entities prescribed by Subsection (c) of Section 50.374 of this code, until such time as the district becomes financially active and the governing board adopts a fiscal year; thereafter, the district shall file annual audit reports as prescribed by this subchapter.

(d) A district that becomes financially dormant after having been financially active shall be required to file annual financial dormancy affidavits on or before January 31, until such time the district is either dissolved or again becomes financially active.

(e) Districts governed by this section are subject to periodic audits by the executive director.

[Acts 1977, 65th Leg., p. 70, ch. 35, § 6, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.378. Audit Report Exemption

(a) A district may elect to file annual financial reports with the executive director and the other governmental entities prescribed by Subsection (c) of Section 50.374 of this code in lieu of the district's compliance with Section 50.371 of this code provided:

(1) the district had no bonds or other long-term (more than one year) liabilities outstanding during the fiscal period;

(2) the district did not have gross revenues in excess of \$5,000 during the fiscal period; and

(3) the district's cash, receivables, and temporary investments were not in excess of \$20,000 during the fiscal period.

(b) The annual financial report must be accompanied by an affidavit attesting to the accuracy and authenticity of the financial report signed by the district's current president or chairman of the board, or by a county judge who is presiding as chairman of the governing board.

(c) The annual financial report and affidavit in a format prescribed by the executive director must be on file with the executive director and other governmental entities prescribed by Subsection (c) of Section 50.374 of this code within 45 days after the close of the district's fiscal year.

(d) Districts governed by this section are subject to periodic audits by the executive director.

[Acts 1977, 65th Leg., p. 70, ch. 35, § 7, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.379. Fiscal Year

Within 30 days after a district becomes financially active, the governing board of that district shall adopt a fiscal year by a formal board resolution and so note it in the district's minutes. The president or chairman of the governing board or a member of the board designated by the presiding officer or the attorney representing the district shall notify the executive director of the adopted fiscal year within 30 days after adoption.

[Acts 1977, 65th Leg., p. 71, ch. 35, § 8, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 50.380. River Authorities: Bids for Audit not Required

Text of section as added by Acts 1983, 68th Leg., p. 1046, ch. 235, art. 8, § 4(b)

The board of directors of a river authority need not advertise for competitive bids before selecting the independent public accountant or certified public accountant to perform the annual audit required by this chapter.

[Acts 1983, 68th Leg., p. 1046, ch. 235, art. 8, § 4(b), eff. Sept. 1, 1983.]

For text of section as added by Acts 1983, 68th Leg., p. 2493, ch. 435, § 5, see § 50.380, post

§ 50.380. Inapplicability of Municipal Annexation Act Provision¹

Text of section as added by Acts 1983, 68th Leg., p. 2493, ch. 435, § 5

Section 11, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), does not apply to the annexation by a city of a district which has a

noncontiguous portion which is not within the extra-territorial jurisdiction of the city.

[Acts 1983, 68th Leg., p. 2493, ch. 435, § 5, eff. Aug. 29, 1983.]

¹ Section heading editorially supplied.

For text of section as added by Acts 1983, 68th Leg., p. 1046, ch. 235, art. 8, § 4(b), see § 50.380, ante

§ 50.381. River Authorities: State Auditor May Audit

If the State Auditor considers it necessary, he may have an audit made of any river authority in this state. The audit shall be conducted in the manner provided by law for audit of the state government.

[Acts 1983, 68th Leg., p. 1046, ch. 235, art. 8, § 4(b), eff. Sept. 1, 1983.]

CHAPTER 51. WATER CONTROL AND IMPROVEMENT DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 51.001. Definitions

In this chapter:

- (1) "District" means a water control and improvement district.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commissioners court" means the commissioners court of the county in which a district or part of a district is located.
- (5) "Commission" means the Texas Water Commission.
- (6) "Executive director" means the executive director of the Texas Department of Water Resources.

[Acts 1971, 62nd Leg., p. 276, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

[Sections 51.002 to 51.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION OF DISTRICT

§ 51.011. Creation of District

A water control and improvement district may be created under and subject to the authority, conditions, and restrictions of either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 276, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.012. Composition of District

(a) A district may include all or part of one or more counties, including any town, village, or municipal corporation, and may include any other political subdivision of the state or any defined district.

(b) The areas composing a district do not have to be contiguous but may consist of separate bodies of land separated by land not included in the district; however, each segregated area, before it may be included in the district, must cast a majority vote in favor of the creation of the district.

(c) No district may include territory located in more than one county except by a majority vote of the electors residing within the territory in each county sought to be included in the district.

[Acts 1971, 62nd Leg., p. 276, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.013. Petition

(a) A petition requesting creation of a district shall be signed by a majority of the persons who hold title to land in the proposed district which represents a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. If there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them.

(b) The petition may be signed and filed in two or more copies.

[Acts 1971, 62nd Leg., p. 277, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.014. Contents of Petition

The petition shall include:

- (1) the name of the district;
- (2) the area and boundaries of the district;
- (3) the provision of the Texas Constitution under which the district is to be organized;
- (4) the purpose or purposes of the district;
- (5) a statement of the general nature of the work to be done and the necessity and feasibility of the project, with reasonable detail and definiteness to assist the court or commission passing on the petition in understanding the purpose, utility, feasibility, and need; and
- (6) a statement of the estimated cost of the project based on the information available to the person filing the petition at the time of filing.

[Acts 1971, 62nd Leg., p. 277, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.015. Place of Filing; Recording

(a) The petition shall be filed in the office of the county clerk of the county in which the district is located. If land in more than one county is included in the district, copies of the petition certified by the clerk shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(b) The petition shall be recorded in a book kept for that purpose in the office of the county clerk.

(c) If more than one petition is filed and the petitions are identical except for the signature, one copy of the petition shall be recorded and all signatures on the other petitions shall be included.

[Acts 1971, 62nd Leg., p. 277, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.016. Commissioners Court or Commission to Consider Creation of District

If the land to be included in a district is within one county, the creation of the district shall be considered and ordered by the commissioners court, but if the land to be included in a district is in two or more counties, the creation of the district shall be considered and ordered by the commission.

[Acts 1971, 62nd Leg., p. 277, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 51.017. Single-County District: Hearing

(a) Except as provided in Subchapter H of this chapter, if a petition is filed for the creation of a district within one county, the county judge shall issue an order setting the date of hearing on the petition by the commissioners court and shall endorse the order on the petition or on a paper attached to the petition.

(b) After the order is issued, the county clerk shall issue notice of the hearing.

(c) The petition may be considered at a regular or special session of the court.

[Acts 1971, 62nd Leg., p. 278, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.018. Single-County District: Notice of Hearing

(a) The notice of hearing on the petition shall include a statement of the nature and purpose of the district and the date, time, and place of hearing.

(b) The notice shall be prepared with one original and three copies. The county clerk shall retain one copy of the notice in his files and deliver the original and two copies to the county sheriff.

(c) The sheriff shall post one copy of the notice at the courthouse door 15 days before the day of the hearing and shall publish one copy in a newspaper of general circulation in the county once a week for two consecutive weeks. The first newspaper publication shall be made at least 20 days before the day of hearing.

(d) Before the hearing, the sheriff shall make due return of service of the notice with copy and affidavit of publication attached to the original.

[Acts 1971, 62nd Leg., p. 278, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.019. Single-County District: Name

(a) A district located in one county may be named the _____ County Water Control and Improvement District, Number _____. (Insert the name of the county and proper consecutive number.)

(b) A district may be known and designated by any term descriptive of the location of the district and descriptive of the principal powers to be exercised by the district; however, the word "district" shall be included in the designation and a consecutive number shall be assigned to it if other districts of the same name have been created in the county.

[Acts 1971, 62nd Leg., p. 278, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.020. Single-County District: Testimony at Hearing

(a) At the hearing on the petition, any person whose land is included in or would be affected by the creation of the district may appear and contest the creation of the district and may offer testimony to show that the district:

- (1) is or is not necessary;
- (2) would or would not be a public utility or benefit to land in the district; and
- (3) would or would not be feasible or practicable.

(b) The hearing may be adjourned from day to day.

[Acts 1971, 62nd Leg., p. 278, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.021. Single-County District: Granting or Refusing Petition

(a) The commissioners court or the commission shall grant the petition requesting the creation of a district if it appears at the hearing that:

- (1) organization of the district as requested is feasible and practicable;
- (2) the land to be included and the residents of the proposed district will be benefited by the creation of the district;
- (3) there is a public necessity or need for the district; and
- (4) the creation of the district would further the public welfare.

(b) If the commissioners court or the commission fails to make the findings required by Subsection (a) of this section, it shall refuse to grant the petition.

(c) If the commissioners court or the commission finds that any of the land sought to be included in the proposed district will not be benefited by inclusion in the district, it may exclude those lands not to be benefited and shall redefine the boundaries of the proposed district to include only the land that will receive benefits from the district.

(d) The provisions of this section do not apply to underground water conservation districts which are

created under the provisions of Chapter 52 of this code.

[Acts 1971, 62nd Leg., p. 279, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.022. Single-County District: Appeal from Order of Commissioners Court

(a) If the commissioners court grants or refuses to grant the petition, any person who signed the petition or any person who appears and protests the petition and offers testimony against the creation of the district may appeal from the order of the court by giving notice of appeal in open court at the time of the entry of the order, which shall be entered on the court's docket, and by filing with the clerk of the commissioners court within five days a good and sufficient appeal bond in the amount of \$2500.

(b) The appeal bond shall be approved by the clerk of the commissioners court payable to the county judge conditioned for the prosecution of the appeal with effect and the payment of all costs incurred with the appeal in the event that the final decree of the court is against the appellant.

[Acts 1971, 62nd Leg., p. 279, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.023. Single-County District: Record on Appeal; Notice of Appeal

(a) On completion of an appeal as provided in Section 51.022 of this code, the clerk of the commissioners court shall, within 10 days, prepare a certified transcript of all orders entered by the commissioners court and transmit them with all original documents, processes, and returns on processes to the clerk of the district court to which the appeal is taken.

(b) All persons shall be charged with notice of the appeal without notice or service of notice. No person who failed to appear by petition, in person, or by attorney in the commissioners court may be permitted to intervene in the district court trial.

[Acts 1971, 62nd Leg., p. 279, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.024. Single-County District: Hearing in District; Procedure

(a) The district court, either in term time or in vacation time, shall schedule the appeal for hearing with all reasonable dispatch.

(b) In the proceeding in the district court, formal pleadings shall not be required but, with the court's permission, may be filed.

(c) The trial and decision shall be by the court without the intervention of a jury, and the hearing shall be conducted as though the jurisdiction of the district court were original jurisdiction.

(d) The following matters may be contested in the district court:

- (1) all matters which were or might have been presented in the commissioners court;

(2) the validity of the act under which the district is proposed to be created; and

(3) the regularity of all previous proceedings.

[Acts 1971, 62nd Leg., p. 279, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(43), eff. Aug. 31, 1981.]

§ 51.025. Single-County District: Judgment of District Court; Appeal

(a) In the appeal, the district court shall apply to the determination its full powers to the end that substantial justice may be done.

(b) An appeal from the judgment of the district court may be taken as in other civil causes, but appeals filed under Section 51.022 of this code shall be given precedence on the docket of any higher court over all causes which are not of similar public concern.

(c) The final judgment of the district court, or other court to which an appeal may be prosecuted, shall be certified and transmitted to the clerk of the commissioners court with all original documents and processes which were transmitted from the commissioners court to the district court on appeal.

(d) The commissioners court shall enter its order on the petition to conform to the decree entered by the court of final jurisdiction and shall enter other and further orders as may be required by law to execute the intent of the certified decree.

[Acts 1971, 62nd Leg., p. 280, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.026. Single-County District: Appointment of Directors; Bond

(a) If the commissioners court grants a petition for creation of a district, it shall appoint five directors who shall serve until their successors are elected or appointed in accordance with law.

(b) Each director shall, within 15 days after appointment, file his official bond in the office of the county clerk, and the county clerk shall present the bond to the county judge for approval. The county judge shall pass on the bond and approve it, if it is proper and sufficient, or disapprove it and shall endorse his action on the bond and return it to the county clerk.

(c) If approved, the bond of a director shall be recorded in a record kept for that purpose in the office of the county clerk, but if a bond is not approved, a new bond may be furnished within 10 days after disapproval.

(d) If any director appointed under this section fails to qualify, the commissioners court shall appoint another person to replace him.

(e) Each director appointed under this section shall take the oath of office as provided by Section 51.078 of this code.

[Acts 1971, 62nd Leg., p. 280, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.027. Multi-County District: Hearing by Commission

(a) The commission shall have exclusive jurisdiction and power to hear and determine all petitions for creation of a district which will include land or property located in two or more counties.

(b) The orders of the commission concerning the organization of a district shall be final, unless an appeal is taken from the orders as provided in this subchapter.

[Acts 1971, 62nd Leg., p. 281, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.028. Multi-County District: Notice of Hearing

(a) When a petition is filed, the commission shall give notice of a hearing in the manner provided in Section 51.018 of this code.

(b) Further, the notice shall be posted at the courthouse door, on the bulletin board used for posting legal notices, in each county in which the district may be located.

(c) The notice shall be published in one or more newspapers with general circulation in the area of the proposed district.

[Acts 1971, 62nd Leg., p. 281, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.029. Multi-County District: Deposit Accompanying Petition

(a) A petition to create a multi-county district shall be accompanied by a deposit of \$600 for the use of the state, and no part of the deposit may be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be placed with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition. At the time of action on the petition, the commission shall direct the state treasurer to transfer the deposit into the general revenue fund.

(c) If at any time before the hearing on the petition, the petitioners withdraw the petition, and only in that event, the commission shall direct the refund of the deposit to petitioners or their attorney of record. The receipt of the attorney of record shall be sufficient receipt for the return of the money.

[Acts 1971, 62nd Leg., p. 281, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 367, ch. 81, § 9(c), eff. Sept. 1, 1983.]

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

§ 51.030. Multi-County District: Hearing of Commission; Procedure

(a) The commission shall hear, consider, and determine on the issues a petition filed under Section 51.028 of this code.

(b) At the hearing on the petition, the commission shall be governed by the provisions of Section 51.021 of this code.

[Acts 1971, 62nd Leg., p. 281, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.031. Multi-County District: Appeal from Commission Decision

(a) When the commission grants or refuses a petition, any person who comes within the requirements specified in Sections 51.020-51.025 of this code may prosecute an appeal from the judgment of the commission under Sections 51.022-51.025 of this code.

(b) The appeal may be taken to any district court in any county in which part of the proposed district is located or to a district court in Travis County.

(c) The time within which an appeal bond may be approved and filed is 15 days after the entry of the final order by the commission.

(d) On the perfection of the appeal, the appellant shall pay the actual cost of the transcript of the record, which will be assessed as part of the costs incurred on the appeal.

(e) Whenever practicable, the original documents and processes with the returns attached shall be sent to the district court.

[Acts 1971, 62nd Leg., p. 281, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.032. Multi-County District: Appointment of Directors by Commission; Bond

(a) If the commission grants the petition for creation of the district, it shall appoint five directors, who shall serve until their successors are elected or appointed.

(b) A certified copy of the order of the commission granting a petition and naming the directors shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(c) Each director named in the order shall, within 15 days after appointment, file his official bond in the office of the county clerk of the county of his residence. The county clerk shall present the bond to the county judge for approval.

(d) The county judge shall act on each bond in the manner provided in Section 51.026 of this code.

(e) If any director appointed under this section fails to qualify, the commissioners court of the county in which he lives shall appoint some qualified person to replace him.

[Acts 1971, 62nd Leg., p. 282, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.033. Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition

(a) Within 30 days after the date of the first meeting of the board and before the district may incur any indebtedness other than for its operation and the holding of an election, the board shall issue and publish an order calling an election in the district to confirm the creation of the district.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Confirmation of the district."

(c) The election shall be held in the manner provided for other elections.

(d) At the election, the proposition for the issuance of preliminary bonds may also be submitted to the district electors. Separate ballot boxes shall be provided for the different classifications of voters.

[Acts 1971, 62nd Leg., p. 282, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.034. Result of Election; Entry of Order

(a) If the majority of those voting at an election held under Section 51.033 of this code vote in favor of the confirmation of the district, the district is confirmed and ratified, but if the majority of those voting at the election vote against the confirmation of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

(b) If the majority of those voting at the election favor the confirmation of the district and the result is declared, the board shall enter in their minutes an order substantially as follows: "An election having been held in _____ district on the _____ day of _____ for the purpose of voting on the confirmation of the creation of the district and the results of the election resulted in a vote of _____ votes for confirmation and _____ votes against confirmation of the district, the result is declared in favor of the creation of the district. The district is therefore declared to have been legally organized with the following boundaries: (Describe boundaries)."

(c) The order shall be signed by a majority of the board and acknowledged by the president of the board. The order shall be filed for record in the office of the county clerk of any county in which the district is situated and recorded in the deed records.

[Acts 1971, 62nd Leg., p. 282, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.035. Inclusion of City, Town, or Municipal Corporation in District

(a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of

the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district which includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation.

[Acts 1971, 62nd Leg., p. 283, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.036. Confirmation Election in District Including Land in More than One County

No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county.

[Acts 1971, 62nd Leg., p. 283, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.037. Exclusion of Parts of District; Dissolution

(a) If any portion of a district governed by Sections 51.035 and 51.036 of this code, votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organization expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board.

[Acts 1971, 62nd Leg., p. 283, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.038. Municipal Districts

(a) A district operating under the provisions of this chapter may, by order of the board entered in the minutes, become a "municipal district."

(b) To become a municipal district, a district shall have a taxing power unlimited as to rate and amount and may not have outstanding or authorized bond obligations exceeding 20 percent of the established assessable, taxable evaluation of the real estate subject to the district's taxing power. In computing outstanding or authorized bond obligations, the bond obligations which may be retired by the district out of revenues from sources other than the income from district taxation shall not be included.

(c) To be eligible to become a municipal district, a district:

(1) shall embrace the total area of a municipal corporation which has bond obligations which may be declared eligible for purchase by savings banks and trusts under the acts of the State of New York, and which has plans designed for furnishing, in whole or in part, a water supply, sanitation facilities, flood protection, or other service inuring to the general benefit of the inhabitants of the embraced city; or

(2) shall have a population, according to the last preceding federal census, of at least 30,000 persons and have established assessable real estate values of at least \$50 million.

[Acts 1971, 62nd Leg., p. 284, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.039. Bonds of Municipal Districts

(a) A district operating under Section 51.038 of this code may issue bonds which bear the legend "municipal bond."

(b) Bonds issued in compliance with this section and with Section 51.038 of this code shall be eligible for investment of the funds of:

(1) state banks, trust funds, and savings banks;

(2) insurance companies, for the purpose of holding the bonds as legal reserves against liability under their contracts for insurance or for investment of an accumulated surplus;

(3) counties, cities, towns, and other political bodies, for the purpose of investing the accumulated sinking fund money of those bodies;

(4) the State Board of Education and the regents of The University of Texas System; and

(5) trustees, receivers, administrators, and guardians administering funds under orders of a court.

(c) Municipal bonds issued under this section, when in the lawful possession of any person, shall be lawful reserves, where reserves are required by law.

(d) The bonds are eligible for deposit with the banking and insurance departments of Texas in all

cases where deposit, pledge, or security is required by law.

(e) The bonds shall be lawful security for any bank designated as an official depository for a political body under the laws of Texas.

[Acts 1971, 62nd Leg., p. 284, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.040. Conversion of Certain Districts into Districts Operating under this Chapter

(a) Any water improvement district, levee improvement district, or irrigation district created under Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution, or any conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, may be converted to a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that, in its judgment, conversion into a water control and improvement district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district.

[Acts 1971, 62nd Leg., p. 284, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.041. Conversion of District; Notice

(a) Notice of the adoption of a resolution under Section 51.040 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the time set for a hearing.

(c) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the resolution in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

[Acts 1971, 62nd Leg., p. 285, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.042. Conversion of District; Findings

(a) If, on a hearing, the governing body of the district finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter.

(b) If the governing body finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the governing body of a district entered under this section are final and not subject to appeal or review.

[Acts 1971, 62nd Leg., p. 285, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.043. Effect of Conversion

A district which converts into a district operating under this chapter shall:

(1) be constituted a water control and improvement district operating under and governed by this chapter;

(2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and

(3) have and may exercise all the powers, authority, functions, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

[Acts 1971, 62nd Leg., p. 285, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.044. Reservation of Certain Powers for Converted Districts

(a) Any water improvement district, water control and preservation district, fresh water supply district, levee improvement district, drainage district, or navigation district, after conversion under Section 51.040 of this code, may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion.

(b) At the time of making the order of conversion, the governing body shall specify in the order the specific provisions of the chapter of the code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter.

(c) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(d) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district.

[Acts 1971, 62nd Leg., p. 286, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.045. Conversion of a District Operating under this Chapter to a Fresh Water Supply District

(a) Any district operating under this chapter may be converted into a district operating as a fresh water supply district under Chapter 53 of this code in the manner provided in this section.

(b) The governing body of a district desiring to convert under this section shall adopt a resolution declaring that, in its judgment, conversion of the district into one operating under Chapter 53 of this code and under the provisions of Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property in the district.

(c) The resolution shall provide for a public hearing on the proposition at a date to be fixed by the governing body not less than 15 days nor more than 30 days from the date of the resolution.

(d) Notice of the hearing shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication shall be not less than 14 days before the time set for the hearing. The notice shall contain a copy of the resolution or a substantial statement of the matters contained in the resolution.

(e) At the hearing, any person may appear and offer testimony and other evidence.

(f) If, on hearing, the board finds that the conversion of the district operating under this chapter into one operating under Chapter 53 of this code would be in the best interest of the district and would be a benefit to the land and property in the district, it shall enter an order declaring the district to be one operating under Chapter 53 of this code, and thereafter, the district shall operate under the provisions of Chapter 53.

(g) If the board finds that conversion would not be in the best interest of the district and would not be a benefit to the land and property in the district, it shall enter its order to that effect and the district shall continue to operate under this chapter.

(h) The findings of the governing body shall be final and not subject to review or appeal.

(i) Nothing in this section may be construed to authorize the impairment of any existing contract.

[Acts 1971, 62nd Leg., p. 286, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.046. Organization of District to Conduct Preliminary Surveys

A district may be organized for the sole purpose of conducting preliminary surveys to determine whether or not improvements are needed and what improvements, if any, are required to promote the public welfare.

[Acts 1971, 62nd Leg., p. 287, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.047. Creation of Master District

A master district may be created under this chapter and may include all or any part of the area of one or more districts created and operating under the provisions of this chapter or Chapters 53, 55, 56, 57, 60-63 of this code or Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925.¹

[Acts 1971, 62nd Leg., p. 287, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ Water Auxiliary Laws, art. 7808 et seq.

§ 51.048. Purposes of Master District

(a) A master district may be created to conduct preliminary surveys and to develop a plan for the control and use of the water of any given stream, so that the improvements on one part of a watershed will be mechanically and economically related to all other improvements on the stream or its watershed.

(b) A master district also may be created to enable districts to pool their resources when necessary to economically:

- (1) make preliminary surveys;
- (2) adopt a plan to coordinate the plants, improvements, and facilities of the several constituent districts;
- (3) provide the improvements and facilities proposed to be constructed and furnished by the master district;
- (4) provide improvements for the common benefit of the several districts;
- (5) enable the districts jointly to make purchases; or
- (6) maintain or operate works for the common benefit of the several districts.

[Acts 1971, 62nd Leg., p. 287, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.049. Master District; Procedure

(a) The Commission shall have exclusive jurisdiction to hear and determine petitions for the creation of a master district.

(b) Each district composing part of a master district shall, for all purposes of an election, constitute a separate voting unit. No existing district may be included in a master district unless the proposal is approved by a majority of the qualified electors of the constituent district voting in the election.

[Acts 1971, 62nd Leg., p. 287, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.050. Master District; Directors

A master district may have directors which number five, seven, or any other uneven number up to 21.

¹(b) The number shall be determined at the time of the creation of the district and may thereafter be changed by the directors of the district in a manner to conform to the requirements for equitable repre-

sentation for the various areas of the master district.

(c) The election and qualification of the directors shall, where applicable, be controlled as provided by the other provisions of this chapter.

[Acts 1971, 62nd Leg., p. 287, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ No "(a)" in enrolled bill.

§ 51.051. Master District Governed by Chapter

The provisions of this chapter, where applicable, shall govern a master district in:

- (1) the procedure for its creation;
- (2) the conduct of its affairs; and
- (3) its powers.

[Acts 1971, 62nd Leg., p. 288, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.052. City, Town, or Municipal Corporation Created as a District

(a) Any city, town, or municipal corporation may have the benefit and powers provided in this chapter under the Texas Constitution and may aid any district in the construction and operation of any improvements to the extent that the improvements may be an advantage to the municipal corporation.

(b) The area included in any city, town, or municipal corporation may be organized into and constituted a district operating under this chapter with all the powers, authority, and privileges provided by Article XVI, Section 59, of the Texas Constitution. The district shall be governed by this chapter and by an ordinance duly enacted by the governing body of the city, town, or municipal corporation.

(c) The ordinance required by Subsection (b) of this section shall appoint five directors for the district. Each director's bond shall be filed with and approved by the governing body of the municipal corporation.

(d) On the qualification of the directors, the district shall be completely organized without the necessity of an election. The district shall thereafter be governed by the provisions of this chapter.

[Acts 1971, 62nd Leg., p. 288, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.053 to 51.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 51.071. Board of Directors

The governing body of a district is the board of directors, which shall consist of five directors.

[Acts 1971, 62nd Leg., p. 288, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.072. Qualifications for Director

To be qualified for election as a director, a person must be a resident of the state, own land subject to

taxation in the district, and be at least 21 years of age.

[Acts 1971, 62nd Leg., p. 288, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.0721. Disqualification of Members of the Board

(a) A person is disqualified from serving as a member of the board of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district, if:

- (1) he is related within the third degree of affinity or consanguinity to a developer of property in the district, any other member of the board, or the manager, engineer, or attorney for the district;
- (2) he is an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;
- (3) he is a developer of property in the district;
- (4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district; or
- (5) he is:
 - (A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or
 - (B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a director and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Acts 1973, 63rd Leg., p. 1749, ch. 635, § 2, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 601, ch. 248, § 2, eff. May 20, 1975.]

§ 51.073. Election of Directors; Term of Office

(a) An election shall be held in the district on the second Tuesday in January following the creation of the district to elect five directors.

(b) The three directors receiving the highest number of votes shall serve as directors for four years, and the other two directors shall serve for two years.

(c) At the second election of directors, two directors shall be elected to serve for four years.

(d) After the second election of directors, an election shall be held in each even-numbered year with two directors elected at one election and three the next election in continuing sequence.

[Acts 1971, 62nd Leg., p. 288, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5212, ch. 951, § 2, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 51.0731. Election Date for Certain Directors

The election date for directors of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district shall be the first Saturday in April.

[Acts 1973, 63rd Leg., p. 1539, ch. 559, § 2, eff. June 15, 1973. Amended by Acts 1975, 64th Leg., p. 625, ch. 256, § 1, eff. Sept. 1, 1975.]

§ 51.074. Election to Replace Directors Temporarily Appointed by Commission

(a) A district organized by order of the commission shall elect five directors at the election which is held to confirm the creation of the district. The names of the five appointed directors shall be placed on the ballot, with a blank space left to write in the names of other persons.

(b) If the appointed directors are elected, they shall be confirmed without the necessity of furnishing new bonds and shall continue in office.

(c) If any of the appointed directors are not elected, the person or persons elected in their places

must furnish bond, which shall be approved in the manner provided for directors first appointed.

[Acts 1971, 62nd Leg., p. 289, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.075. Application to Get on Ballot

A candidate for the office of director or other elective office may file an application with the secretary of the board to have his name printed on the election ballot. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election.

[Acts 1971, 62nd Leg., p. 289, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.076. Selection of Directors in Certain Districts

(a) In a district created after June 18, 1967, with boundaries coterminous with the boundaries of a county, the commissioners court may provide in the order granting the petition for creation that the directors are to be selected either as provided in Section 51.073 of this code or by the "commissioners precinct method," which provides for the election of two directors from each commissioners precinct in the county and the election of one director from the county at large.

(b) If the commissioners court provides for the commissioners precinct method, it may appoint two qualified directors from each commissioners precinct and one director from the county at large, who shall serve until their successors are elected and have qualified. Except for the provisions of this subsection, Section 51.026 of this code applies to the appointment of the initial directors.

(c) The directors appointed by the commissioners court under Subsection (b) of this section shall order an election in the district on the second Tuesday in January following the creation of the district. The two persons receiving the highest number of votes in each precinct are the directors from that precinct, and the person receiving the highest number of votes from the county at large is the director at large.

(d) Of the two persons elected from each commissioners precinct, the person who receives the highest number of votes in each precinct shall serve for four years and until his successor is elected and has qualified, and the person receiving the second highest number of votes in each precinct shall serve for two years and until his successor is elected and has qualified. The person who is elected from the county at large shall serve for four years and until his successor is elected and has qualified. At each election after the first election, a person who is elected director shall serve for four years and until his successor is elected and has qualified.

(e) To be qualified for election as a director from a commissioners precinct, a person must be 21 years of age, a citizen of the state, and own land subject

to taxation in the commissioners precinct from which he is elected.

(f) To be qualified for election as a director from the county at large, a person must possess the qualifications specified in Section 51.072 of this code.

(g) If a vacancy occurs in the office of director between regular elections, the vacancy shall be filled for the unexpired term at a special election in the director's precinct. The special election shall be called by a majority of the remaining members of the board within 8 days after the vacancy occurs and to be held not more than 40 days after the vacancy occurs.

(h) Except as otherwise provided in this section, all laws relating to the election and qualification of directors of a district shall govern and control the election and qualification of directors selected by the commissioners precinct method whether the precinct election is regular or special.

[Acts 1971, 62nd Leg., p. 289, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5212, ch. 951, § 3, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 51.077. Organization of Board

After a district is created and the directors have qualified, the board shall meet, elect a president, vice president, and secretary, and begin the discharge of its duties.

[Acts 1971, 62nd Leg., p. 290, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.078. Director's Oath

Each director shall take the oath of office prescribed by law for county commissioners.

[Acts 1971, 62nd Leg., p. 290, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.079. Director's Bond

(a) Each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(b) After the creation of the district and the qualification of the first board of directors, all bonds required to be given by a director or other officer of the district are subject to the approval of the board.

(c) The county clerk of the county in which the director lives shall record each bond in the bond records of the county. The bond also shall be recorded in a bond record in the district office and filed for safekeeping in the depository of the district.

[Acts 1971, 62nd Leg., p. 290, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.080. Compensation of Directors

(a) A director is entitled to receive compensation of not more than \$50 a day for each day he actually spends performing his duties as a director, but the fees shall not be more than \$200 for any one month.

(b) Before a director may receive compensation for his services, he shall file with the secretary a verified statement showing the number of days actually spent in the service of the district. The statement shall be filed on the last day of the month, or as soon after that time as possible.

[Acts 1971, 62nd Leg., p. 291, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 643, ch. 144, § 1, eff. May 17, 1983.]

§ 51.081. Officers; Quorum

(a) The president is the chief executive officer of the district and presides at all meetings of the board. The vice president shall act as president in case of the absence or disability of the president. The secretary is secretary of the board and is responsible for seeing that all records and books of the district are properly kept. In the case of the absence or inability of the secretary to act, the board shall select a secretary pro tem.

(b) Three directors constitute a quorum for any meeting, and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository for payment of the contracts, which require the concurrence and signature of four directors. Warrants to pay current expenses, salaries, and accounts may be drawn by an officer or employee designated by standing order entered in the minutes when these accounts have been contracted and ordered paid by the directors.

[Acts 1971, 62nd Leg., p. 291, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.082. Vacancies

(a) All vacancies on the board and in other offices shall be filled for the unexpired term by appointment of the board.

(b) If the number of directors is reduced to fewer than three, the vacancies shall be filled by special election ordered by the remaining members of the board. If the director or directors fail to order an election within 15 days after the vacancies occur, any voter or creditor of the district may petition the district judge of any judicial district in which land of the district is located, and the judge may order the election, fixing the date, ordering the publication of notice by any county sheriff, and naming the officers to hold the election.

(c) The returns of the election ordered by a district judge shall be made to and filed in the office of the clerk of the court and he shall declare the result of the election.

(d) The officers elected shall furnish bond and qualify in the manner provided in this chapter for

directors first appointed for a district on its creation.

[Acts 1971, 62nd Leg., p. 291, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.083. General Manager

The board may employ a general manager and give him full authority in the management and operation of the affairs of the district subject only to the orders of the board.

[Acts 1971, 62nd Leg., p. 291, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.084. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall continue to perform the duties of a director.

[Acts 1971, 62nd Leg., p. 292, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.085. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office.

[Acts 1971, 62nd Leg., p. 292, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.0851. Disqualification of Tax Assessor and Collector

(a) No person may serve as tax assessor and collector of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district if:

(1) he is related within the third degree of affinity or consanguinity to any developer of property in the district, a member of the board or the manager, engineer, or attorney for the district;

(2) he is or was within two years immediately preceding the assumption of his assessment and collection duties with the district an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) he owns an interest in or is employed by any corporation organized for the purpose of tax assessment and collection services, a substantial portion of the stock of which is owned by a developer of property within the district, any director, manager, engineer, or attorney for the district; or

(4) he is himself or through a corporation developing land in the district, or is a director, engineer or attorney for the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as tax assessor and

collector with a person who would not be disqualified.

(c) Any person who wilfully violates the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

[Acts 1973, 63rd Leg., p. 1537, ch. 558, § 2, eff. June 15, 1973.]

§ 51.086. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.087. Deputy Tax Assessor and Collector

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy may be required to furnish a bond with similar conditions to the bond required by the tax assessor and collector.

[Acts 1971, 62nd Leg., p. 292, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.088. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy.

[Acts 1971, 62nd Leg., p. 292, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.089. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter.

[Acts 1971, 62nd Leg., p. 292, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.090. Bonds of Officers of a District Acting as Fiscal Agent or Collecting Money for United States

(a) If a district is appointed fiscal agent for the United States or if a district is authorized to make collections of money for the United States in connection with a federal reclamation project, each director and officer of the district including the tax assessor and collector shall execute an additional bond in the amount required by the secretary of the interior,

conditioned on the faithful discharge of his respective office and on the faithful discharge by the district of its duties as fiscal or other agent of the United States under its appointment or authorization.

(b) The additional bonds shall be approved, recorded, and filed as provided in this chapter for other official bonds.

(c) Suit may be brought on the bonds by the United States or any person injured by the failure of the officer or ¹ the district to fully, promptly, and completely perform their respective duties.

[Acts 1971, 62nd Leg., p. 292, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ So in enrolled bill.

§ 51.091. Employees of the District

The board shall employ all persons necessary for the proper handling of the business and operation of the district, its plant and improvements. It may employ attorneys, bookkeepers, engineers, laborers, and a civil engineer, who shall be an officer of the district, to be known as "District Engineer."

[Acts 1971, 62nd Leg., p. 293, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.092. Employees' Compensation and Terms of Employment

The board shall determine the term of office and compensation to be paid the general manager and all employees. All employees may be removed by the board.

[Acts 1971, 62nd Leg., p. 293, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.093. Officers' and Employees' Bond

(a) The board shall require an officer or employee who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of his duties and on accounting for all funds and property of the district coming into his hands.

(b) The bond may be signed by individual sureties or by surety companies authorized to do business in the state.

[Acts 1971, 62nd Leg., p. 293, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.094. District Office

The board shall maintain a regular office for conducting the business of the district. The office shall be located inside the district, or if the district does not include towns which are within or adjoining the territory included in the district, it may be located in a nearby town which is best suited for the transaction of the business.

[Acts 1971, 62nd Leg., p. 293, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.0941. District Office in Certain Districts

After at least 25 qualified electors are residing in the district any district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district shall maintain a district office within the district, and on majority vote of the board at a public meeting, may maintain an office outside the district.

[Acts 1973, 63rd Leg., p. 618, ch. 263, § 2, eff. Aug. 27, 1973.]

§ 51.095. Meetings

(a) The board shall hold regular meetings at the district office on the first Monday in February, May, August, and November of each year at 10 a. m. and may hold meetings at other times when required for the business of the district.

(b) Any person owning taxable property in the district may attend any meeting of the board and may present in an orderly manner matters for the board's consideration.

[Acts 1971, 62nd Leg., p. 293, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.0951. Meetings in Certain Districts

After at least 25 qualified electors are residing in a district covered by Section 51.0941 of this code, on written request of at least five of these electors, the board shall designate a meeting place within the district. On the failure to designate the location of the meeting place within the district, five electors may petition the commission to designate a location, which may be changed by the board after the next election of members to the board.

[Acts 1973, 63rd Leg., p. 618, ch. 263, § 2, eff. Aug. 27, 1973.]

§ 51.096. Minutes and Records of the District

The board shall keep a true and complete account of all its meetings and proceedings, and shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds in a fire-proof vault or safe. All minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection.

[Acts 1971, 62nd Leg., p. 293, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.0961. Records in Certain Districts

Any district covered by the provisions of Section 51.0941 of this code shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds or certified copies of these in a safe place in the district office located in the district. These minutes, contracts, records, notices,

accounts, receipts, and other records are the property of the district and subject to public inspection.

[Acts 1973, 63rd Leg., p. 618, ch. 263, § 2, eff. Aug. 27, 1973.]

§ 51.097. Recording Proceedings

All proceedings of the board and all decrees and orders of any court affecting the creation, boundaries, or validity of the district must be recorded in a special record book kept for that purpose in the office of the county clerk of each county in which the district is located. This recording is in addition to other recording provisions in this chapter.

[Acts 1971, 62nd Leg., p. 294, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.098. Contracts

District contracts shall be executed by the board in the name of the district.

[Acts 1971, 62nd Leg., p. 294, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.099. Suits

A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries.

[Acts 1971, 62nd Leg., p. 294, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.100. Payment of Judgment Against District

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

[Acts 1971, 62nd Leg., p. 294, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.101. Actions Contesting District, Bonds, or Contracts; Suit by Attorney General

(a) Except as provided in Subsection (b) of this section, and as provided in Sections 51.021–51.025 of this code, no suit may be instituted in any court of this state contesting:

- (1) the validity of the creation and boundaries of a district created under this chapter;
- (2) any bonds or other obligations created under this chapter; or
- (3) the validity or the authorization of a contract with the United States by the district.

(b) The matters listed in Subsection (a) of this section may be judicially inquired into at any time and determined in any suit brought by the State of Texas, through the attorney general, on his own motion or on the motion of any person affected by the existence or plans of the district. The action shall be brought on good cause shown, except

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where otherwise provided by other provisions of this chapter or by the Texas Constitution.

[Acts 1971, 62nd Leg., p. 294, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.102 to 51.120 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 51.121. Purposes of District

(a) A water control and improvement district organized under the provisions of Article III, Section 52, of the Texas Constitution, may provide for:

- (1) the improvement of rivers, creeks, and streams to prevent overflows, to permit navigation or irrigation, or to aid in these purposes; or
- (2) the construction and maintenance of pools, lakes, reservoirs, dams, canals, and waterways for irrigation, drainage, or navigation, or to aid these purposes.

(b) A water control and improvement district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, may provide for:

- (1) the control, storage, preservation, and distribution of its water and floodwater and the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land which needs irrigation;
- (3) the reclamation, drainage, conservation, and development of its forests, water, and hydroelectric power;
- (4) the navigation of its coastal and inland water;
- (5) the control, abatement, and change of any shortage or harmful excess of water;
- (6) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (7) the preservation and conservation of all natural resources of the state.

(c) The purposes stated in Subsection (b) of this section may be accomplished by any practical means.

[Acts 1971, 62nd Leg., p. 294, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.122. Powers of District

The district has the functions, powers, authority, rights, and duties which will permit the accomplishment of the purposes for which it was created, including the investigation and, in case a plan for improvements is adopted, the construction, maintenance, and operation of necessary improvements, plants, works, and facilities, and the acquisition of water rights and all other properties, land, tenements, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the objects authorized for the district, subject only

to the restrictions imposed by the constitutions of Texas or the United States. A district also may acquire property deemed necessary for the extension or enlargement of the plant, works, improvements, or service of the district.

[Acts 1971, 62nd Leg., p. 295, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.123. Acquisition of Property

(a) A district may acquire the land material, borrow and waste ground, rights-of-way, easements, or other property by gift, grant, purchase, or condemnation.

(b) The district may acquire either the fee simple title to or an easement on all land, public or private, located inside or outside the district.

(c) The district may acquire the title to or an easement on property other than land held in fee.

[Acts 1971, 62nd Leg., p. 295, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 15, eff. June 10, 1981.]

§ 51.124. Planning

The board may make investigations and plans necessary to the operation of the district and the construction of improvements. It may employ engineers, attorneys, bond experts, and other agents and employees required to perform this duty.

[Acts 1971, 62nd Leg., p. 295, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.125. Construction of Improvements

A district may construct all works and improvements necessary:

- (1) for the prevention of floods;
- (2) for the irrigation of land in the district;
- (3) for the drainage of land in the district, including drainage ditches or other facilities for drainage;
- (4) for the construction of levees to protect the land in the district from overflow;
- (5) to alter land elevations where correction is needed; and
- (6) to supply water for municipal uses, domestic uses, power and commercial purposes, and all other beneficial uses or controls.

[Acts 1971, 62nd Leg., p. 296, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.126. Purchase of Machinery and Supplies

The board may purchase machinery, materials, and supplies needed in the construction, operation, maintenance, and repair of district improvements.

[Acts 1971, 62nd Leg., p. 296, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.127. Adopting Rules and Regulations

A district may adopt and make known reasonable regulations to:

(1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of sanitary sewer systems;

(2) preserve the sanitary condition of all water controlled by the district;

(3) prevent waste or the unauthorized use of water; and

(4) regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district.

[Acts 1971, 62nd Leg., p. 296, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.128. Effect of Rules and Regulations

After the required publication, rules and regulations adopted by the district under Section 51.127 of this code shall be recognized by the courts as if they were penal ordinances of a city.

[Acts 1971, 62nd Leg., p. 296, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.129. Publication of Rules and Regulations

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules or regulations and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located.

(b) The substantive statement shall be as condensed as is possible to intelligently explain the purpose to be accomplished or the act forbidden by the rule or regulation.

(c) The notice must advise that breach of the regulations will subject the violator to a penalty and that the full text of the regulation is on file in the principal office of the district where it may be read by any interested person.

(d) Any number of regulations may be included in one notice.

[Acts 1971, 62nd Leg., p. 296, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.130. Effective Date of Rules and Regulations

The penalty for violation of a rule or regulation is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published regulation shall be in effect and ignorance of it is not a defense for a prosecution for the enforcement of the penalty.

[Acts 1971, 62nd Leg., p. 297, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.131. Penalties for Violation of Regulation

(a) The board may set reasonable penalties for the breach of any regulation of the district, which

shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

[Acts 1971, 62nd Leg., p. 297, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.132. Enforcement by Peace Officers

(a) A district may employ and commission its own peace officers with the following limited powers:

(1) make arrests when necessary to prevent or abate the commission of any offense against the regulations of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; or

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

(b) Peace officers employed and commissioned under this section must be certified by the Commission on Law Enforcement Officer Standards and Education under Chapter 546, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 4413(29aa), Vernon's Texas Civil Statutes).

[Acts 1971, 62nd Leg., p. 297, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 546, ch. 114, § 2, eff. May 17, 1983.]

§ 51.133. Constructing Bridges and Culverts Across and Over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts.

[Acts 1971, 62nd Leg., p. 297, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.134. Constructing Culverts and Bridges Across and Under Railroad Tracks, Roadways, and Interurban or Street Railways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways of any railroad or any interurban, or street railway to enable the district to construct and maintain any canal, lateral, ditch, or other improvement of the district.

(b) Before the district builds a bridge or culvert, the board shall deliver written notice to the local agent, superintendent, roadmaster, or owner. The railroad company or its owner shall have 60 days in which to build the bridge at its own expense and according to its own plans.

(c) The canal, culvert, ditch, or structure shall be constructed of sufficient size and proper plan to serve the purpose for which it is intended.

[Acts 1971, 62nd Leg., p. 297, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.135. Contracting for Toll Bridges and Ferry Service

(a) A district may make contracts with responsible persons for the construction and operation of toll bridges over the district's water for not more than 20 years or for ferry service on or over the district's water for not more than 10 years.

(b) The contract shall set reasonable compensation to be charged for service by the facility and shall require adequate bond or bonds from the person with whom it enters into the contract, payable to the district, on the conditions and in the amount which the board considers necessary.

(c) The contracts may provide for forfeiture of the franchise for a failure of the licensee to render adequate public service.

[Acts 1971, 62nd Leg., p. 298, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.136. Right to Enter Land

The board, the district engineer, and the employees of the district may enter any land inside or outside the district to make surveys for reservoirs, canals, rights-of-way, dams, or other contemplated improvements and to attend to any business of the district.

[Acts 1971, 62nd Leg., p. 298, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.137. Power to Contract

The district may enter into a contract for the use by another of its water, power, facilities, or service, either inside or outside the district, except that a contract may not be made which impairs the ability of the district to serve lawful demands for service within the district.

[Acts 1971, 62nd Leg., p. 298, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.138. Investigation and Report of Engineer

(a) The district engineer shall make a thorough study and investigation of all plans of the district and make and file in the district office a report on all plans for construction of plants and improvements.

(b) The board shall provide and keep a book in the district office, to be known as the "Engineer's Record," in which all reports and recommendations made by the district engineer shall be recorded. The "Engineer's Record" shall be open to public inspection.

(c) A contract for more than \$20,000 may not be made by the district unless the district has a district

engineer who has made a proper study and report on it.

[Acts 1971, 62nd Leg., p. 298, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.139. Contracts for Materials, Machinery, Construction, Etc., for More than \$10,000

(a) With the exception of a district operating under a contract with the United States, the board shall let a contract for more than \$10,000 for the purchase of materials, machinery, and all things to constitute the plant, works, facilities, and improvements of the district or for construction as specified in Subsections (b)-(d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which part of the district is located to give general circulation in the district. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district, or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers.

(e) A contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plant, improvements, facilities, and works.

(f) Repealed by Acts 1977, 65th Leg., p. 379, ch. 187, § 2, eff. Aug. 29, 1977.

[Acts 1971, 62nd Leg., p. 298, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 379, ch. 187, § 2, eff. Aug. 29, 1977.]

§ 51.140. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a cashier's check on a

responsible bank in the state for at least two percent of the total amount of the bid, or a bid bond of at least two percent of the total amount of the bid issued by a surety legally authorized to do business in this state.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he forfeits the amount of the cashier's check which accompanied his bid, or if a bid bond has been given, the district shall have the legal remedies available under the bond.

[Acts 1971, 62nd Leg., p. 299, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 378, ch. 187, § 1, eff. Aug. 29, 1977.]

§ 51.141. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who requests it in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

[Acts 1971, 62nd Leg., p. 299, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.142. Provisions of Contracts for Construction Work

(a) Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

[Acts 1971, 62nd Leg., p. 299, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.143. Executing and Recording Construction Contract.

(a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose.

(c) The contract shall be available for public inspection.

[Acts 1971, 62nd Leg., p. 300, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.144. Contractor's Bond

(a) The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default or complete the contract according to its terms.

(c) All sureties signing the bond are bound by it to the same extent that the principal is bound, regardless of the technical defenses.

(d) The bond shall be deposited in the district depository, and a true record of it shall be entered in a record book in the district office.

[Acts 1971, 62nd Leg., p. 300, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.145. Reports on Construction Work

During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract.

[Acts 1971, 62nd Leg., p. 300, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1778, ch. 653, § 1, eff. June 16, 1973.]

§ 51.146. Payments Under Construction Contract

(a) The district shall pay the contract price of such contracts as hereinafter provided.

(b) The district will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer. If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the district engineer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract and (2) if the contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized on the work covered by this contract.

(c) In making such progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the directors, at any

time after 50 percent of the work has been completed, find that satisfactory progress is being made, they may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the directors, if they consider the amount retained to be in excess of the amount adequate for the protection of the district, at their discretion, may release to the contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefor without retention of a percentage.

[Acts 1971, 62nd Leg., p. 300, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1778, ch. 653, § 1, eff. June 16, 1973.]

§ 51.147. Repealed by Acts 1973, 63rd Leg., p. 1780, ch. 653, § 7, eff. June 16, 1973

§ 51.148. Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10, eff. May 31, 1971

§ 51.149. Contracts

(a) On approval by a majority of the members of the board, a district may enter into a contract with any person for the joint construction, ownership, or operation of any property, works, improvements, facilities, plants, equipment, or appliances used to accomplish any purpose or function of the district and may purchase an interest in any project used for any purpose or function of the district.

(b) On approval by a majority of the members of the board, a district may enter into a contract with any person in the performance of any purpose or function of the district.

(c) A joint contract entered into by a district under this section and amendments to that contract must be in writing and signed by each party or by an authorized representative of each party.

(d) If a joint contract entered into by a district under this section contemplates the construction of property, works, improvements, facilities, plants, equipment, or appliances, the contract may be awarded only after the districts have sought competitive bids and have complied with other procedures as provided by Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes), and Sections 51.139 through 51.146 of this code to the extent that those sections do not conflict with Chapter 770, Acts of the 66th Legislature, Regular Session, 1979 (Article 2368a.3, Vernon's Texas Civil Statutes).

[Acts 1971, 62nd Leg., p. 301, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 461, ch. 95, § 1, May 10, 1983.]

Section 3 of the 1983 amendatory act provides:

"This Act applies to contracts entered into by a water control and improvement district on or after the effective date of this Act. Contracts entered into by a water control and improvement district under Sections 51.149 through 51.155, Water Code, before the effective date of this Act are governed by those sections as they

existed at the time the contract was entered into, and those laws are continued in effect for that purpose."

§§ 51.150 to 51.155. Repealed by Acts 1983, 68th Leg., p. 462, ch. 95, § 2, eff. May 10, 1983

Section 3 of the 1983 repealing act provides:

"This Act applies to contracts entered into by a water control and improvement district on or after the effective date of this Act. Contracts entered into by a water control and improvement district under Sections 51.149 through 51.155, Water Code, before the effective date of this Act are governed by those sections as they existed at the time the contract was entered into, and those laws are continued in effect for that purpose."

See, now, § 51.149.

§ 51.156. Contract with the United States

(a) The board of a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution to irrigate arid land may contract with the United States for the investigation, construction, extension, operation, and maintenance of any federal reclamation project of benefit to the district and authorized under the National Reclamation Act of 1902, as amended.

(b) The board may contract to secure a district water supply from the federal reclamation project and to pay to the United States the agreed cost of it in the form of construction charges, operation and maintenance charges, and water rental charges, as shown by the contract and in accordance with the terms and conditions of the national reclamation law.

[Acts 1971, 62nd Leg., p. 302, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.157. Construction Charges under a Contract with the United States

The construction charges under a contract with the United States may include the cost of drainage and flood-control works necessary to control floods or to maintain the irrigability of district land, and the cost of incidental electric power and municipal water service which the water supply of the reclamation project makes feasible.

[Acts 1971, 62nd Leg., p. 303, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.158. Election to Approve a Contract with the United States

(a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot.

[Acts 1971, 62nd Leg., p. 303, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.159. Conveying Property to the United States

A district may convey any property to the United States necessary for the construction, operation, or maintenance of federal reclamation works used or to be used for the benefit of the district.

[Acts 1971, 62nd Leg., p. 303, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.160. Engineering Data Unnecessary

If a district contracts with the United States under the provisions of Section 51.155 of this code for use by the district of federal reclamation works, the district need not prepare or file any engineering data for the construction of the works.

[Acts 1971, 62nd Leg., p. 303, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.161. Consent of United States to Alter District's Boundaries

Until all money has been paid by the district which is due to the United States under a contract relating to a federal reclamation project, the United States must consent to any change in the boundaries of the district.

[Acts 1971, 62nd Leg., p. 303, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.162. Taxes Levied by District under Contract with the United States

(a) A district which enters into a contract with the United States shall levy annually sufficient taxes to provide payment of all installments required by the contract.

(b) The board may apportion benefits and levy and collect taxes on the benefit basis instead of the ad valorem basis with the approval of the district electors.

(c) The board may pay construction charges when provided by contract on the basis of the average gross annual acre income of the land of the district or designated divisions or subdivisions of the district. The secretary of the interior shall determine the annual gross acre income.

[Acts 1971, 62nd Leg., p. 303, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.163. Assessments for Contracts with the United States

The board shall levy annually sufficient assessments to collect the money required to pay all the district's obligations in full when due regardless of

any delinquency in payment of assessments by any tract of land. If collections in any year are insufficient to pay the obligations of the district, the levy shall be increased sufficiently the following year to cover the deficit.

[Acts 1971, 62nd Leg., p. 304, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.164. Duration of Annual Levies for Contracts with the United States

The board shall continue annual levies for payment of construction charges each year against each tract of land in the district even though construction charges apportioned against other tracts of land in the district may be paid sooner or later.

[Acts 1971, 62nd Leg., p. 304, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.165. Superiority of Lien to Secure Contract with the United States

The lien against district land created by a contract with the United States shall be superior to the lien created by any district bonds approved subsequent to the date of the contract with the United States.

[Acts 1971, 62nd Leg., p. 304, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.166. District's Authority to Solicit Cooperation, Donations and Contributions from Other Agencies

A district organized under the provisions of this chapter may solicit cooperation, donations, and contributions from the United States, the state, or any other state or nation; any county, municipality, water improvement district, water control and improvement district, drainage district, or any other political subdivision of the state; or any person, copartnership, corporation, or association.

[Acts 1971, 62nd Leg., p. 304, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.167. Expense of Procuring Cooperation and Contributions from Other Agencies

A district may incur reasonable expense to procure cooperation under Section 51.166 of this code in adding to the area of the district or with contributions to the cost of improvements made by the district. The contributions may be either a percentage of cost or a definite annual sum.

[Acts 1971, 62nd Leg., p. 304, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.168. Authority of Contributor

(a) Any water improvement district, water control and improvement district, levee improvement district, county, city, town, or other political subdivision of the state may contract to contribute to the cost of the construction of drainage, flood-control or water-supply improvements, or the changing of land elevations which need correction. The improve-

ments to be constructed may be outside the contributing district, municipality, or other political subdivision of the state, and may be located outside the state or the United States.

(b) The works may be constructed by any agency.

(c) The contributions shall be proportionate to the benefit which the contributor will derive from the proposed improvements.

[Acts 1971, 62nd Leg., p. 304, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.169. Issuance of Bonds by Contributor

(a) The contract may provide for the issuance of bonds by the contributor and for direct payment from the proceeds of the bonds to contractors on the estimates of the engineer for the contributor.

(b) Before issuing bonds, a contributing political subdivision shall submit the contract for contribution to its electors for approval and for authority to issue the bonds, fix a lien to secure the bonds, and levy, assess, and collect taxes to retire the bonds. The procedure by a contributing political subdivision of the state shall conform to the applicable law under which the political subdivision was organized and authorized to create bonded indebtedness.

(c) The disposition of the proceeds of the bonds shall conform to the approved contract of contribution.

[Acts 1971, 62nd Leg., p. 305, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.170. Annual Tax by Contributor

(a) The contract for contribution may provide that instead of issuing bonds the contributor may levy, assess, and collect an annual tax in a specific sum. The levy or assessment is a lien on the property subject to the contributor's taxing power.

(b) The contributor shall collect the tax at its own expense and pay it annually to the district to which the contribution is to be made. The district shall hold the annual payment as a trust fund and annually apply it to the bonds issued by it to provide funds for the construction of the improvements to which the contribution is made.

(c) The contributor shall submit the contract of contribution to its electors for approval and for authority to levy and assess a sufficient tax to meet the annual payments fixed in the contract. The election for the approval of the contract and the authorized taxes for the fulfillment of the contract shall conform to appropriate law under which the contributing political subdivision was organized and authorized to create bonded indebtedness.

(d) Payment of the annual sums of contribution shall conform to the contract of contribution.

[Acts 1971, 62nd Leg., p. 305, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.171. Contributions from Unappropriated or Available Funds of Contributor

(a) If the proposed contributor has an unappropriated fund or a fund which is not required for actual use even though otherwise appropriated, the fund may be withdrawn from the project which does not need it and may be applied to pay contributions to the cost of the improvements considered to be a benefit to the contributor but to be constructed by another agency or jointly by the contributor and another agency.

(b) The board of the contributing political subdivision may contract for contributions and contribute from an unappropriated or available fund without submitting the contract and contributions to a vote of the electors of the contributor. However, the contributions shall not be made if they impair the ability of the contributor to meet any outstanding obligation or to adequately and economically discharge the contributor's duty to its electorate or constituency.

[Acts 1971, 62nd Leg., p. 305, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.172. Liability on Contracts of Acquired Irrigation System

If a district acquires an established irrigation system which has contracted to supply water to others and the holders of the contracts or the lands entitled to service of water are not within the district, the contracts and duties shall be performed by the district in the same manner and to the same extent that any other purchaser of the system would be bound.

[Acts 1971, 62nd Leg., p. 306, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.173. Authority to Lease Irrigation System Serving the District

(a) The board, by resolution, may lease all or part of any irrigation system serving all or part of the district, including distribution laterals, trunk or transmission canals, pumping plants, intakes, and all usual or necessary appurtenances. The board's resolution will specify the term of the lease, which may not be more than 40 years.

(b) The board may lease property located partly outside the boundaries of the district and may sell surplus water to other districts and to other consumers.

[Acts 1971, 62nd Leg., p. 306, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.174. Covenants and Agreements Included in Lease

(a) The lease shall expressly state that the sums payable under the terms of the lease and the lease itself shall not constitute an indebtedness or pledge of the general credit of the district within the meaning of any constitutional or statutory limitation of indebtedness. The lease shall contain a statement

that payments due under it are not payable from any funds raised or to be raised by taxation.

(b) The lease may contain covenants and agreements which are not inconsistent with the provisions of this code which authorize the lease for:

- (1) the management and operation of the leased properties;
- (2) the imposition and collection of charges for water;
- (3) the disposition of the proceeds of charges;
- (4) the insurance, protection, and maintenance of the leased properties;
- (5) the creation of other obligations payable from the revenues derived from the operation of the leased properties;
- (6) the keeping of books and records by the district; and
- (7) other pertinent provisions which the board considers desirable to assure the payment of amounts due under the lease.

[Acts 1971, 62nd Leg., p. 306, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.175. Revenue for Payment of Lease Rental

(a) All money due the lessor under the lease shall be payable solely from the revenue derived by the district from the sale of water supplied through the leased system.

(b) The board shall set and collect charges for the water supplied through the leased properties to produce sufficient revenue at all times to allow for delinquencies and to pay promptly all rental payments becoming due under the terms of the lease. The board may agree to deposit this money in a separate fund as a first charge on the gross revenue received each year from sales of water, and which shall not be used for any other purpose.

(c) The board may agree in the lease to pay all expenses of operating and maintaining the leased properties from the fund provided by the board each year for the maintenance and operation expenses of the district so that the gross revenue from sale of water will be available exclusively for payment of rentals until the amount required for rentals each year is paid into the separate rental fund.

(d) If the board includes this agreement in the lease, the board shall provide for the payment of sums into the maintenance fund from sources other than the remaining portions of the gross revenue from the sale of water not required to pay rentals which are sufficient each year to pay all expenses of operating the district and maintaining and operating its properties and facilities, including the leased properties.

[Acts 1971, 62nd Leg., p. 306, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.1751. Additional Sources for Payment of Lease

(a) Notwithstanding any other provision of this chapter, a district may make payments from tax revenue under a lease of all or any part of an irrigation system as provided in Section 51.173 of this code if the lease is approved by a majority of the qualified voters voting at an election held for that purpose.

(b) An election for the approval of a lease shall be called and conducted, the returns canvassed, and notice of the election given under the same procedure as a bond election in the district. The election may be held on the same day as a bond election of the district.

(c) If the lease is approved at the election and authorized by the board of directors, it shall constitute an obligation against the taxing power of the district, and the district shall levy, assess, and collect taxes to the extent provided in the lease.

[Acts 1979, 66th Leg., p. 883, ch. 403, § 2, eff. June 6, 1979.]

§ 51.176. Receiver for Leased Irrigation System

(a) If the district defaults in the payments due under a lease, the lessor may petition a court of competent jurisdiction to appoint a receiver for the leased properties.

(b) The receiver shall operate the properties and collect and distribute the revenue according to the terms of the lease and the direction of the court.

(c) The receiver has the same rights and powers as the board in its operation of the leased properties.

[Acts 1971, 62nd Leg., p. 307, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.177. Joint Lease by Two or More Districts

The boards of two or more districts may adopt resolutions to enter into a joint lease under the provisions of Section 51.173 of this code. The joint lease shall specify clearly the respective rights and liabilities of the districts and shall be subject to all the provisions of Sections 51.173-176 of this code.

[Acts 1971, 62nd Leg., p. 307, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.178. Authority to Acquire Irrigation System Subject to Mortgage

A district may acquire by gift, grant, or purchase any part of an irrigation system serving the district which is subject to a mortgage or encumbrance. The mortgage or encumbrance shall not be assumed by the district and shall not be an indebtedness of the district but shall constitute solely a charge on the encumbered property and the revenue from it.

[Acts 1971, 62nd Leg., p. 307, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.179. Revenue for Payment of Mortgage

(a) The board may determine conclusively by resolution whether the mortgage or encumbrance represents all or part of the cost of the acquired property and constitutes a purchase money lien on the property.

(b) The board may contract to use and pledge its revenue derived solely from the sale of water and services supplied through the acquired properties for the payment of a purchase money lien.

(c) The board also may use revenue from taxation or from the issuance and sale of bonds to pay all or part of the amount due under the encumbrance if a majority of the electors of the district voting at an election on this proposition approve its use.

[Acts 1971, 62nd Leg., p. 307, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.180. Election to Approve Revenue for Payment of Mortgage

(a) If tax and bond revenue is pledged to pay amount due under the encumbrance, the district must hold an election and receive the approval of the electors.

(b) An election to approve the use of tax and bond revenue shall be held in the same manner and with the same voters' qualifications as provided for elections on the issuance of the bonds of the district.

[Acts 1971, 62nd Leg., p. 308, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.181. Joint Acquisition of Mortgaged System by Two or More Districts

(a) Two or more districts jointly may acquire by gift, grant, or purchase any part of an irrigation system serving the districts subject to a mortgage or encumbrances in the same manner that a single district may acquire the system.

(b) In the proceedings authorizing the acquisition, the boards of the respective districts shall define clearly the respective rights, interest, and liability of the districts in the acquired property and in the mortgage or encumbrance.

[Acts 1971, 62nd Leg., p. 308, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.182. Authority to Lease Facilities to Water Customers

(a) A district may lease to any person, firm, or corporation which is a bona fide water customer of the district any of its river pump stations, conveyance canals, off-channel reservoirs, reservoir pump stations, water mains, water treatment plants, or other facilities used in connection with them. The lease may include any of the district's land which is appropriate to the utilization of the leased facilities, including but not limited to land acquired by eminent domain.

(b) The board and the lessee shall agree on the form of the lease and its terms, conditions, provisions, and stipulations; however, the duration of the lease shall not be longer than the duration of the water contract between the district and the lessee under the primary term of the water contract and any renewal or extension of it.

(c) After a lease to a water customer is authorized by the board, the lease shall be executed by the president or vice president of the board and attested by the secretary. The lease is valid and effective without any other requirement or prerequisite by the district.

[Acts 1971, 62nd Leg., p. 308, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.183. Expense of Relocation of Facilities

If a district created after August 27, 1961, requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties, or facilities, or pipelines in the exercise of the power of eminent domain or police power or any other power, all the relocation, raising, lowering, rerouting, or changes in grade or alteration of construction shall be the sole expense of the district. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility. This section does not apply to projects under construction or financed or for which bonds were voted and approved by a district on August 27, 1961, unless the acts of the district authorizing the construction or financing contained the provisions of this section.

[Acts 1971, 62nd Leg., p. 308, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.184. Preference in Use of Water

(a) The board may award the use of district water in the following order of preference and superiority:

- (1) domestic and municipal use;
- (2) industrial use, other than the development of hydroelectric power;
- (3) irrigation;
- (4) development of hydroelectric power;
- (5) pleasure and recreation.

(b) The board may withdraw water from an inferior use and appropriate the water to a superior use when required for the welfare of the district.

(c) The board must use the condemnation procedures in Subchapter F of this chapter for a withdrawal or diversion of the use of water which affects a vested right.

(d) The board may implement the action prescribed in Subsection (b) or in Subsections (b) and (c) above, and shall obtain necessary amendments to

the district's permit, certified filing, or certificate of adjudication in the manner provided in Section 11-122 of this code.

[Acts 1971, 62nd Leg., p. 309, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 1250, ch. 473, § 1, eff. June 19, 1975; Acts 1981, 67th Leg., p. 980, ch. 367, § 16, eff. June 10, 1981.]

Section 2 of the 1975 Act provided:

"No action or proceeding commenced prior to the effective date of this Act and no right accrued by actual change prior to the effective date of this Act shall be affected by the enactment of this Act."

Section 3 thereof, the emergency provision, provided in part:

"The fact that a recent decision of the Austin Court of Civil Appeals may have limited the primary jurisdiction of the Texas Water Rights Commission to supervise and regulate changes in water rights and may have affected the jurisdiction of the commission to regulate and cancel water rights, and to administer the Water Rights Adjudication Act, creates an emergency * * *"

§ 51.185. Suit to Protect Water Rights

The board may institute and maintain any suit or suits to protect the water supply or other rights of the district, to prevent any unlawful interference with the water supply or other rights of the district, or to prevent a diversion of its water supply by others.

[Acts 1971, 62nd Leg., p. 309, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.186. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as the land from which the water was transferred.

[Acts 1971, 62nd Leg., p. 309, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.187. Selling Waterpower Privileges

(a) The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs or within its canal system.

(b) The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for the purpose for which the district was organized and for municipal purposes in districts which furnish water for municipal purposes.

[Acts 1971, 62nd Leg., p. 309, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.188. Selling Surplus Water

The district may sell any surplus district water for use in irrigation or for domestic or commercial uses to any person who owns or uses land in the

vicinity of the district or to other districts which include land in the same vicinity.

[Acts 1971, 62nd Leg., p. 309, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.189. Pumping Water to Another District

If the board considers it advisable, it may contract to pump for or supply another district any water in which the other district has a right. The board shall provide the terms of the contract.

[Acts 1971, 62nd Leg., p. 310, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.190. Obtaining Topographic Maps and Data

The executive director shall furnish to a district topographic maps and data concerning all projects for the control of floods undertaken by the district and all projects for the storage of water or creation of reservoirs undertaken by the district.

[Acts 1971, 62nd Leg., p. 310, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 51.191. Sale of Property not Required for District's Plans

The board may sell at a public or private sale any property or land owned by the district which is not required to carry out the plans of the district.

[Acts 1971, 62nd Leg., p. 310, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.192. Notice of Sale of Property not Required for District's Plans

Before either a public or a private sale of property not required for the district's plans, the district shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

[Acts 1971, 62nd Leg., p. 310, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.193. Use of Proceeds from Sale of Property not Required for District's Plans

(a) If the district has outstanding bonds, the proceeds of the sale of property not required for the district's plans shall be applied to retire outstanding emergency warrants, if any, issued to protect ultimate liability of the district in condemnation proceedings as provided in this chapter and the remainder, if any, to be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district.

(b) If the district does not have money available from other sources to complete the plans for which its construction work and its bonds were authorized, the board may use the proceeds derived from the sale of the property or land not required to carry out the plans of the district to complete the work included in its plans for improvements to the degree required, and any excess of the proceeds shall be

applied as provided in Subdivisions (1) and (2) of this section.

[Acts 1971, 62nd Leg., p. 310, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.194. Sale of Property not Acquired to Carry Out the Plans of the District

The board may sell property bid in by it at any sale under foreclosure of its tax lien or of its lien for charges or assessments, or any property acquired by it other than for the purpose of carrying out the plans of the district, without formally determining that the property is not required to carry out the plans of the district, without giving notice of the intent of the district to sell the property, and without applying the proceeds of the sale as provided in Section 51.192 of this code.

[Acts 1971, 62nd Leg., p. 310, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.195. Prohibited Charges and Fees

(a) In this section, "undeveloped property" means property within the district to which water or sewer services are actually available and to which no water or sewer connections have been made.

(b) Except as provided in Subsection (c) of this section, no district in which the ratio of the assessed valuation of property to the amount of bonded indebtedness of the district is at least 15 to 1, proposing to provide or actually providing water and sewer services or either of these services to household users as the principal function of the district, may adopt and impose on the owners of undeveloped property in the district a charge or fee on the undeveloped property that is in addition to taxes levied on that property.

(c) If the board of directors of a district covered by this section desires to adopt and impose a charge or fee prohibited by Subsection (b) of this section, it shall submit to the commission a petition for authority to adopt and impose the charge or fee. If the commission finds that it will be in the best interest of the district and property owners of the district, the commission shall approve the adoption and imposition of the charge or fee for a period of not more than three years. The imposition of a charge or fee may be renewed for additional periods of three years in the manner provided in this section for initial approval of the charge or fee.

[Acts 1979, 66th Leg., p. 437, ch. 198, § 1, eff. Jan. 1, 1980.]

Section 2 of the 1979 Act provided:

"This Act shall not apply to districts which do not as a principal function provide water and sewer services or either of these services to household users."

[Sections 51.196 to 51.220 reserved for expansion]

SUBCHAPTER E. ELECTION PROVISIONS

§ 51.221. Election Procedure

(a) The board shall provide for holding elections and giving notice and shall appoint officers to hold the election at the time the election is ordered.

(b) The officers for the election shall include a presiding judge and an assistant judge and two clerks. More clerks may be appointed if necessary.

(c) The board shall name the polling places, and if more than one polling place is necessary, the board shall divide the district into election precincts. The polling places may be changed from time to time as required.

[Acts 1971, 62nd Leg., p. 311, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.222. Notice of Election

(a) Notice of an election shall be given by order of the board.

(b) The notice shall be signed by the president and secretary of the board and shall state:

- (1) the purpose of the election;
- (2) the propositions and officers to be voted on;
- (3) the polling places; and
- (4) the names of the election officers.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located. If no newspapers are published in these counties, the notice shall be published in the county nearest to the district. The first publication shall be not less than 21 days nor more than 35 days before the day of the election.

[Acts 1971, 62nd Leg., p. 311, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.223. Preparation and Delivery of Returns

(a) The election officers shall make and deliver the election returns in triplicate. One copy shall be retained by the election judge; one copy shall be delivered to the president of the board, and one copy shall be delivered to the secretary of the board.

(b) The election officers shall give to the newspapers and to other persons requesting them the returns of the election in that box at the time the returns are made.

(c) The ballot boxes and other election records and supplies shall be delivered to the secretary of the board at the district office.

(d) The ballot boxes containing the voted or mutilated ballots shall be preserved for one year subject to the order of any court in which a contest of the election is filed.

[Acts 1971, 62nd Leg., p. 311, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.224. Canvass of Returns

The board shall meet and canvass the returns of the election not less than five nor more than seven days after the day of the election. If the returns cannot be canvassed within seven days after the

day of the election, they shall be canvassed as soon as possible after that time.

[Acts 1971, 62nd Leg., p. 312, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.225 to 51.230 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

§ 51.231. Power of Eminent Domain

(a) The district may exercise the power of eminent domain to acquire all land, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the purposes of the district. Property condemned by the district also may include property considered necessary for the extension or enlargement of the plant, works, improvements, or service of the district.

(b) The district may condemn either the fee simple title or an easement, and the land subject to condemnation may be public or private and may be located inside or outside the district.

[Acts 1971, 62nd Leg., p. 312, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.232. Restriction on Power of Eminent Domain

Except to serve a public need superior to the use to which the property is being devoted, nothing in this subchapter shall authorize a district to condemn any land, property, easement, or facility owned, held, or used by another person when the property is necessary for the person to accomplish any of the purposes of this chapter.

[Acts 1971, 62nd Leg., p. 312, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.233. Choice of Proceedings

Subject to the provisions of this chapter, the board may elect to use condemnation proceedings under the provisions of Title 52, Revised Civil Statutes of Texas, 1925, or the board, by its order for condemnation, may elect to proceed in the manner provided in Sections 51.234-51.273 of this code.

[Acts 1971, 62nd Leg., p. 312, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.234. Petition for Appointment of Tribunal

(a) Any time after a district has adopted a plan for improvements which enables it to determine definitely which easements or fee simple title to property should be acquired, the board may petition the district judge of a judicial district in which part of the district is located, requesting the appointment of a tribunal of three persons to collectively exercise judicial functions within the authority of this subchapter.

(b) If the district judge having jurisdiction is disqualified because of interest, is absent from the

district, or does not act, the petition may be presented to a judge for any judicial district adjacent to the district of the original presentation.

(c) The petition may be presented in term time or in vacation and shall be entered on the docket as provided for other causes. The court's order shall be entered in the minutes of the court.

(d) The petition shall state:

- (1) the necessity for condemnation;
- (2) the name of the county or counties in which the property to be condemned is located; and
- (3) the name and address of each person known to have title to or an interest in any property proposed for condemnation, or that the address is not known and cannot be ascertained by reasonable diligence.

[Acts 1971, 62nd Leg., p. 312, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.235. Qualifications for Appointment to Tribunal

(a) The board, in the petition, shall nominate for appointment to the tribunal three persons who shall be:

- (1) of lawful age;
- (2) qualified electors of the state;
- (3) disinterested, with good moral character; and
- (4) unrelated knowingly within the third degree of consanguinity or affinity to a member of the board making the nomination, the judge having jurisdiction, or to any person known to be asserting title to or an interest in any property proposed to be condemned.

(b) One nominee shall be a lawyer learned in the law of eminent domain and the exercise of rights of eminent domain and the other two nominees shall be persons with knowledge of the value and uses of land, injuries to land, and benefits to land to be affected by the proposed condemnation.

[Acts 1971, 62nd Leg., p. 313, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.236. Hearing on Petition for Appointment of Tribunal

The district judge having jurisdiction shall set a hearing on the petition not less than 10 days nor more than 15 days after the petition is presented to him.

[Acts 1971, 62nd Leg., p. 313, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.237. Notice of Hearing on Petition for Appointment of Tribunal

(a) Notice of the hearing on the petition shall be written or printed and shall give the time, place, and object of the hearing and shall state that all interested persons will be allowed to make objection to any person nominated for appointment in the petition.

(b) The clerk of the court shall send a copy of the notice by registered mail to each owner whose name and address is given in the petition at least five days before the day set for the hearing on the petition. The notice shall be published one time at least five days before the day set for the hearing on the petition in one or more newspapers with general circulation in the area to be affected by the proposed condemnation.

(c) The publication shall have the effect of actual service on all interested persons, whether known or unknown, and whether named or not named in the petition.

[Acts 1971, 62nd Leg., p. 313, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.238. Appointment of Tribunal

(a) At the time and place for the hearing on the petition, the judge shall hear protests from all interested persons.

(b) The judge may refuse to appoint any or all of the persons nominated in the petition if good cause is shown and may appoint other persons considered by him to be qualified under the provisions of this subchapter.

(c) If good cause for refusal is not established, the judge shall appoint the persons nominated in the petition.

[Acts 1971, 62nd Leg., p. 313, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.239. Appointment Final

The proceeding shall be terminated on the appointment of the tribunal, and no appeal from the action of the court can be maintained.

[Acts 1971, 62nd Leg., p. 314, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.240. Costs of Proceeding

The costs of the proceeding to appoint the tribunal shall be paid by the district proposing condemnation.

[Acts 1971, 62nd Leg., p. 314, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.241. Qualifying as Member

Within 10 days after appointment or as soon after that time as practicable, each person appointed shall file with the secretary of the condemning district a written oath to be substantially as follows: "I swear (or affirm) that I, as a member of the tribunal to hear and determine matters incident to the condemnation proceedings instituted by (insert name of the district) will fairly, impartially, and without interest, prejudice, or favor, discharge my duties as a member of the tribunal appointed by the judge of the district court for the _____ District of Texas."

[Acts 1971, 62nd Leg., p. 314, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.242. Compensation of Tribunal

The district shall pay each member of the tribunal reasonable fees of not more than \$25 a day for each day he serves together with his actual expense as approved.

[Acts 1971, 62nd Leg., p. 314, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.243. Filing of Proposed Report with Board

The proposed report shall be delivered to the secretary of the board and shall become a permanent record of the district and be open to examination by all interested persons.

[Acts 1971, 62nd Leg., p. 314, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.244. Appointment of Replacement on Tribunal

(a) If a member of the tribunal fails or refuses to act or becomes disqualified to act, he may be removed by petition to the court.

(b) A qualified substitute may be nominated and appointed to serve in his place in the manner provided for the original appointment, except that citation by publication is not required.

(c) The written notice shall be mailed instantly, and the hearing may be held on the third day after notice is mailed or as soon after the third day as the court may be able to act on the petition.

(d) If a member of the tribunal is disqualified to act regarding some parcel of property because of interest or relationship, a substitute may be appointed to serve only in the matter to which the disqualification exists. In that case, notice shall be given only to the person interested in the property to which the disqualification is related.

[Acts 1971, 62nd Leg., p. 314, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.245. Authority of Tribunal

(a) When qualified, the members collectively shall be a judicial tribunal within the meaning and intent of Article V, Section 1, of the Texas Constitution.

(b) The tribunal shall have the duties and powers which are conferred on county courts and county judges for procedure and for effecting the administration of justice needed to accomplish the purpose of this subchapter.

(c) The tribunal shall have jurisdiction and power to do and decree all things which this subchapter authorizes the tribunal to do.

[Acts 1971, 62nd Leg., p. 315, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.246. Organization of Tribunal

(a) The tribunal may organize to accomplish its duties as it considers best, except that two members are required for a quorum and the concurrence of at

least two members is necessary to decide any matter.

(b) The lawyer member of the tribunal shall be the advisor in matters of law.

(c) The clerk of the district shall furnish the service of a competent person to serve the tribunal as clerk.

(d) Orderly minutes of the proceedings shall be kept and shall be signed by all participating members and shall be a public record.

(e) The tribunal shall have a seal bearing the name of the district and the words "Tribunal for Condemnation."

(f) The proceedings shall be as free from technicality and as summary in character as will accomplish substantial justice.

[Acts 1971, 62nd Leg., p. 315, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.247. Secretary of Tribunal

(a) The secretary of the board shall serve as secretary of the tribunal or the secretary may appoint another well-qualified person to serve as secretary of the tribunal, subject to approval by the tribunal.

(b) The person acting as secretary shall attest all records and reports as "Secretary."

(c) The person appointed to serve shall take an oath that he will keep and preserve a true written record of all material proceedings, findings, appraisements, and assessments concerning the duties of the tribunal.

(d) The secretary shall furnish the tribunal information and assistance within his power and necessary to the performance of its duties.

[Acts 1971, 62nd Leg., p. 315, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.248. Order of Condemnation

(a) Any time after the adoption and approval of plans for improvements or the enlargement, extension, or alteration of improvements, as required by Section 51.234(a) of this code, the board may order the condemnation of any land or other property. The order of condemnation shall be recorded in the minutes.

(b) The board may elect in the order to condemn the fee simple title to the land or to condemn only an easement. Part of a tract of land may be condemned in fee simple and part placed under an easement. The order of condemnation may specify within itself or by reference to exhibits, maps, or plats which land shall be placed under condemnation in fee simple, which land shall be placed under an easement, and if appropriate, identify any other property which is required to be taken.

(c) If it can be given by the exercise of reasonable diligence, the order of condemnation shall state the

name and address of any owner or owners of each separate tract of land and appropriately relate those names and addresses to the property to which the ownership exists.

(d) The order shall contain a general statement showing the necessity for the taking but shall not be held invalid because of fault in the statement.

(e) The order may be amended in any and every particular at any time during the proceedings established in this subchapter if the person affected by the amendment or his agent or attorney is given actual notice of the amendment before any action is taken under it.

(f) The order for condemnation and all its exhibits shall be prepared in duplicate. One copy shall be delivered to the clerk of the tribunal for condemnation and filed by him as a record of the tribunal. The order shall constitute a petition for condemnation.

[Acts 1971, 62nd Leg., p. 315, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.249. Hearing and Order of Board

(a) The board shall receive, hear, and determine protests or recommendations relating to property to be condemned in the manner provided in Section 51.095 of this code.

(b) The findings of the board, after the advice of the district engineer relating to the necessity or advisability of acquiring any part of the property to be condemned, in fee or under an easement, for any purpose connected with or incident to the full completion and practical operation of the improvements to be provided under the district's plans for improvements, shall be final and not subject to judicial review except for fraud, palpable error, or an arbitrary act which would constitute actual fraud.

[Acts 1971, 62nd Leg., p. 316, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.250. Furnishing Board's Findings to Tribunal

The board's determination on the necessity or advisability of acquiring property shall be made before the tribunal views property subject to condemnation, as provided in this subchapter, and the board's specific identifying conclusions shall be furnished to the tribunal. The record shall be accompanied by a designation of all property, easements, or agreements for liquidated damage which have been placed under voluntary option to or adjustment with the district. The tribunal shall omit consideration or any matter already adjusted.

[Acts 1971, 62nd Leg., p. 316, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.251. Discharge of Tribunal's Duties

(a) The tribunal shall begin the discharge of its duties within 30 days after qualifying and organizing.

(b) The tribunal may at all times require the presence and necessary assistance of the district's engineers and attorneys to enable it to perform its duties intelligently.

[Acts 1971, 62nd Leg., p. 316, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.252. Tribunal to View Property

The tribunal shall view all public and private land or other property which has been ordered condemned, whether located inside or outside the district.

[Acts 1971, 62nd Leg., p. 317, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.253. Assessing Values and Damages on Affected Lands

(a) The tribunal shall appraise and assess the values of all affected land, easements, or property rights inside and outside the district and shall specifically appraise and assess the damages to justly compensate and liquidate all injuries to be done to each item of property affected.

(b) The tribunal shall be governed by the provisions of Article 3265, Revised Civil Statutes of Texas, 1925, in assessing the value of property sought to be condemned, computing damages, and determining compensating benefits.

[Acts 1971, 62nd Leg., p. 317, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.254. Omitted Assessment

If the tribunal omits the assessment of damages to any specific parcel of property, either inside or outside the district, it shall be deemed an affirmative finding that no damage will be done to the omitted parcel of property.

[Acts 1971, 62nd Leg., p. 317, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.255. Tribunal's Proposed Report of Findings

(a) The tribunal shall prepare a specific and detailed proposed report of its findings which shows the owner of each parcel of property examined and concerning which any appraisal, award, finding, or assessment is made, together with a description of the property which identifies and relates it to the appropriate appraisal, award, finding, or assessment.

(b) The report shall separate and distinguish:

(1) the value of property to be taken by the district in fee simple;

(2) the amount of compensation for an easement to be taken by the district;

(3) the amount required to justly compensate and liquidate the injury or damage to be done to property which is not condemned and taken in fee simple or placed under an easement; and

(4) when appropriate, specify the parts of a parcel of property falling within more than one of the classifications and allocate to each portion its appropriate classified assessments.

(c) The report shall be prepared in triplicate and shall be approved and signed by at least two members of the tribunal.

(d) The proposed report shall show the number of days each member has actually served and the actual expenses necessarily incurred by each in serving the district.

[Acts 1971, 62nd Leg., p. 317, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.256. Hearing Objections to Tribunal Report

(a) The tribunal, in its proposed report, shall fix times and places to hear objections to its findings as reported. The tribunal shall consider the prevailing convenience of the property owners in fixing a place for hearing objections.

(b) Each hearing concerning land situated in a given county shall be held in the county in which the land proposed to be condemned is located and in a part of the county which will be most convenient to the majority of the landowners.

[Acts 1971, 62nd Leg., p. 317, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.257. Published Notice of Hearing on Tribunal Report

(a) The secretary of the board shall promptly publish a notice of the filing of the report once a week for two consecutive weeks in one or more newspapers with general circulation in the district and in each of the counties in which affected property may be located. The first publication must appear at least 14 days before the day of the hearing.

(b) One notice may specify a hearing day and place for one county only and there may be notice for different days and places of hearing for other counties.

(c) The published notice shall be in substantially the following form:

LEGAL NOTICE

To the owners of, and all other persons having an interest in land or other property lying in _____ County, Texas: Take notice that a copy of the adopted plans for improvements by _____ County Water Control and Improvement District Number _____, are now open to inspection by anyone interested in them at the district's office at _____, Texas. These plans, contour maps and specifications will make manifest how your property will be affected. The tribunal previously appointed have appraised and assessed property values, benefits, and damages accruing to the affected land, and other property, both inside and outside the district, which will be condemned and taken, or subjected to an easement, or damaged, or otherwise affected by

carrying out the plans for improvements to be provided by the district. The recorded report of the tribunal is open to inspection by any interested person at _____, in _____, Texas. Any interested person may make specific written objections to the report in whole or in part, and any person claiming damage to his property inside or outside the district, for which no damages have been assessed in the report are required to file an itemized claim for the damages in the district office on or before the _____ day of _____, _____, and all persons failing to make such objection or claim for damages will be deemed to have waived the same. Further, take notice that the tribunal of appraisal will meet on the _____ day of _____, _____, at _____, Texas, for the purpose of hearing and acting on objections to their proposed decree, and to hear, consider, and determine claims for compensation and damages.

Secretary

[Acts 1971, 62nd Leg., p. 318, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.258. Written Notice of Hearing on Tribunal Report

(a) The Secretary of the board shall mail a written notice to each person whose land or other property is listed in the proposed report of the tribunal if the post-office address is known. The notice shall be mailed at least 10 days before the day for any given hearing.

(b) The notice shall state:

(1) the time and place of the meeting which the person is expected to attend;

(2) that the report of the tribunal to assess burdens on, values of, benefits to, and damages to the land and other property which will be affected by the district's plans for improvements has been filed in the district office and giving the location of the office;

(3) that the advised person may examine the report, together with the district's plans, contour maps, and specifications, and file written specific objections to any part of the report; and

(4) that the tribunal will meet on the day and at the place named for the purpose of hearing the notified person and acting on objections to the report.

(c) Instead of mailing notice, personal notice may be executed and return made under oath by any person appointed by the secretary of the board in the same manner and on the same persons, officers, or agents as provided for service of citations in suits pending in the district courts.

[Acts 1971, 62nd Leg., p. 318, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.259. Certification of Notice by Secretary

The secretary of the board on the first day of the hearing shall file in the district office the original

notice as published, with his affidavit showing the manner of publication and the days on which and the newspaper or newspapers in which the notice was published and shall certify the names and addresses of all persons to whom notices were mailed or on whom actual service was made. The secretary also shall show affirmatively that personal service was executed or timely notice mailed to or served on each landowner whose address was known or could be known by the exercise of reasonable diligence.

[Acts 1971, 62nd Leg., p. 319, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.260. Filing Exceptions to Report of Tribunal

At or before the hearing on the report of the tribunal, any owner of land or other property affected by the report, or by the district's plans for improvements, may file exceptions to any part of the report, either in person or by an attorney or other agent. Any person whose property has been assessed no damages who believes that his land or other property will be damaged by carrying out the plans for improvements may file a claim for the damages with the district.

[Acts 1971, 62nd Leg., p. 319, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.261. Hearing Procedure

(a) At the time and place named in the notice, the tribunal shall hear evidence and determine all objections and claims for damages and shall make changes and modifications from time to time which will cause its proposed decree to conform to the justice of each case under the facts presented.

(b) The tribunal may grant in whole or in part, or may overrule, any claim for compensation or damage or any other exception to its proposed report.

(c) Until all persons desiring a hearing have been heard, the hearing may be recessed from one day or place to other days and places, to be announced in open meeting.

[Acts 1971, 62nd Leg., p. 319, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.262. Final Decree

(a) The tribunal shall determine finally all matters presented concerning its proposed report and shall enter its final decree concerning the proposed report to the extent that it is confirmed and shall approve and confirm the proposed report as modified or changed to the extent that it is modified or changed.

(b) The tribunal in its decree shall condemn all the land, easements, rights-of-way, or other property inside or outside the district which is considered by the board to be needed and is designated to make effectual and practicable the construction and operation of all works, improvements, and services which the district plans to provide ultimately and to

accomplish any purpose designated in this subchapter. The tribunal shall condemn either the fee simple title or an easement as elected and designated by the board.

(c) The tribunal shall judge and award all compensation for property to be taken or placed under easement and shall award all damages, if any are allowed under the law.

[Acts 1971, 62nd Leg., p. 320, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.263. Filing Final Decree

A certified copy of the final decree of condemnation concerning the property in each county shall be filed with the county clerk for record, and the record shall be notice to all persons of the contents of the decree. The original decree shall be a permanent record of the district and also shall constitute notice.

[Acts 1971, 62nd Leg., p. 320, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.264. Costs

The tribunal may apportion and adjudge costs incurred for any hearing in a manner of allocation which is considered equitable.

[Acts 1971, 62nd Leg., p. 320, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.265. Authority to Appeal

(a) The final decree of the tribunal concerning any matter is subject to appeal or judicial review only in the manner specified in Sections 51.667-51.278 of this code.¹

(b) The only questions which may be considered on appeal are whether or not just compensation was allowed and whether or not any damages are lawfully recoverable.

(c) The board in the name and behalf of the district or any person having an interest in the decree of the appraisers may appeal from the decree assessing or refusing to assess damages or fixing compensation for the value of property taken or subjected to an easement.

(d) The claimant shall be considered the plaintiff and the district shall be considered the defendant except in cases in which the district has filed exceptions to the report of the district's referees of appraisal.

[Acts 1971, 62nd Leg., p. 320, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ So in enrolled bill.

§ 51.266. Jurisdiction of Appeal

(a) The appeal shall be in the district court having jurisdiction over the area in which the condemned land is located, either in whole or in part.

(b) The courts of jurisdiction shall be the number required to provide appeals in the jurisdiction within which any given land is situated.

(c) The district courts shall have jurisdiction regardless of the amount or the number of the separate claims involved.

[Acts 1971, 62nd Leg., p. 320, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.267. Notice of Appeal

Notice of appeal shall be given within two days after the entry of the final decree by the tribunal by filing written notice of the appeal with the secretary of the board. The written notice shall be a simple statement that the undersigned gives notice of appeal from the decree entered on the date stated and specifying the exact claims sought to be established by the appeal.

[Acts 1971, 62nd Leg., p. 321, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.268. Appeal Bond

(a) The appellant shall file an appeal bond with two or more good and sufficient sureties with the clerk of the court in which the appeal is being prosecuted within five days after the entry of the decree being appealed. The bond shall be in an amount double the costs, if any, already allocated to the appellant, plus double the amount estimated by the clerk to be incurred on the appeal.

(b) The bond shall be payable to the clerk of the court in which the appeal is being prosecuted and shall be subject to his approval as to sufficiency.

(c) The bond shall be conditioned on the appellant prosecuting his appeal with effect and paying all the costs awarded against him by the court.

(d) Any district, including a district established to be a "Municipal District," appealing a decree shall not be required to give a bond for appeal or a bond for costs.

[Acts 1971, 62nd Leg., p. 321, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.269. Period for Perfecting Appeal

Unless an appeal is perfected as provided in this subchapter within seven days after the day the final decree of the tribunal is rendered, the decree shall be final and conclusive as to any given matter not appealed from and there shall be no extension of time for the filing of an appeal bond.

[Acts 1971, 62nd Leg., p. 321, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.270. Transcript and Pleadings

Within 12 days after the entry of a final decree of condemnation which has been appealed, the secretary of the board shall file with the clerk of the court a certified transcript of the final decree of condemnation which shows the facts concerning the items of decision appealed from, together with the

original notices of appeal or a certificate showing the names and addresses of all persons who gave notice of appeal, and which includes the stated grounds on which each of the appeals has been predicated. It shall not be necessary to file any additional pleadings in the court.

[Acts 1971, 62nd Leg., p. 321, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.271. Docketing Appeal

All appeals for each given county shall constitute one proceeding on the docket of the district court. The docket shall recite the name of each of the parties to the proceeding and shall be indexed accordingly.

[Acts 1971, 62nd Leg., p. 321, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.272. Severance of Appeal

The court, on motion, may grant or refuse to grant a severance of any separate claim arising from distinction as to ownership.

[Acts 1971, 62nd Leg., p. 322, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.273. Procedure for Trial

(a) When an appeal is filed, the court shall set the appeal for a hearing and the appeal shall be tried de novo by the court. The court shall grant any interested party the right to trial by jury on request.

(b) An incomplete hearing may be recessed from one day to another day or may be continued to the next term or succeeding terms of the court.

(c) All proceedings before the court and notices of the hearings shall be in accordance with the provisions of the Texas Rules of Civil Procedure as applied to an ordinary civil case. The admission of evidence and the fixing of awards, so far as applicable and not inconsistent with the provisions of this subchapter, shall be governed by the law and rules of procedure relating to trials and awards in damage suits.

(d) The hearing shall be concluded with all reasonable dispatch, and shall be as summary in character as is consistent with full and complete justice.

[Acts 1971, 62nd Leg., p. 322, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(44), eff. Aug. 31, 1981.]

§ 51.274. Court's Decree

(a) The court shall hear evidence proper to the consideration of any filed exception. After hearing all evidence and argument offered, the court in term time shall enter its final decree, either approving the decree of the tribunal, modifying the decree, or in any manner changing the decree so that in the court's judgment the decree will conform to the justice of each specific case.

(b) Except as otherwise provided in this subchapter, the court's decree shall conform to the provi-

sions of Title 52, Revised Civil Statutes of Texas, 1925.

[Acts 1971, 62nd Leg., p. 322, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.275. Appeal from Court's Decree

The judgment of the district court may be appealed as in civil cases, and each appeal shall constitute a separate cause on the docket of the court of appeals.

[Acts 1971, 62nd Leg., p. 322, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 95, eff. Sept. 1, 1981.]

Section 149 of the 1981 amendatory act provides, in part: "This Act takes effect on September 1, 1981. Appeals to the courts of appeals filed on or after that date shall be filed in the court of appeals having jurisdiction."

§ 51.276. Writ of Possession

The appeal from the decree of the tribunal to condemn shall not delay possession of the condemned property or prosecution of the work, but a writ of possession shall not be issued until a special deposit has been made and certified to the clerk of the court as provided in Section 51.278.

[Acts 1971, 62nd Leg., p. 322, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.277. Reserve Fund Pending Appeal

(a) The district shall set apart in its depository out of the construction fund an amount of money not less than double the amount of the total award made by the tribunal, plus an additional amount which the board considers sufficient to pay the costs then incurred and the costs which may be incurred on appeal. The amount set apart shall be ascertained on the day on which the writ of possession is sought and must actually be available to the condemnor in lawful money of the United States. The fund must remain in the depository until the final adjudication of the condemnation and must be applied to the payment of awards and costs and shall not be used for any other purpose.

(b) In case of evident abuse of discretion by the board, the judge of the court, on motion by an aggrieved appellant, may require the board to increase the reserve fund to an amount which the judge considers adequate to discharge final awards. The board must comply with the increase of the reserve fund before it shall be authorized to take possession of any condemned property or to cause damage to any property.

(c) The record and the conditions of the deposit shall be acknowledged in writing by the depository, and the certificate of deposit shall be filed with the clerk of the court in which an appeal is pending as part of the record in the condemnation proceeding. The clerk of the court shall certify his genuine official signature or those of his qualified deputies to the depository, and the depository may not pay vouchers drawn on the special fund except on writ-

ten approval of the judge, the clerk of the court, and the condemnee.

(d) A condemnee who has appealed a decree may elect to receive money from the designated fund in satisfaction of his demand at any time before the final adjudication. When the condemnee elects to receive the amount of the award in satisfaction of his demand before final judgment or when the judgment in condemnation becomes final, the clerk of the court and the depository shall pay instantly to the condemnee the sum of the deposit due to the condemnee, other than that to cover costs. The payment may be with or without the consent of the condemnor.

(e) Any officer or employee of the condemnor, any officer or employee of the depository of the condemnor, or the clerk of the court or his deputy who knowingly permits any part of the special fund to be paid out for any purpose or in any manner except as provided in this section shall be guilty of a felony. On conviction, he may be fined in any sum not to exceed \$5,000 or imprisoned in the penitentiary for a term not to exceed three years or both.

(f) The sureties on the bond of the miscreant or the bond or security of the offending depository shall restore the misapplied or diverted deposit, provided the required sum, together with other lawful charges against the bond, does not exceed the penal sum of the bond or the security held instead of sureties.

[Acts 1971, 62nd Leg., p. 323, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.278. Vesting Title

On compliance with the provisions of this subchapter, the title to all land, easements, rights-of-way, or other property condemned shall vest in the district after payment or provision for payment of compensation. The district is entitled to immediate possession of the condemned property or rights.

[Acts 1971, 62nd Leg., p. 324, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.279. Claim Barred

A person owning or having an interest in property affected by the district's plans for improvements and service or its condemnation proceedings who has failed to file claim or objection or who has failed to appeal from an adverse ruling by the tribunal on any claim or objection as provided in this subchapter shall not claim from the district, its officers, contractors, agents, or employees any compensation for property or damage to property other than that which already has been awarded by the tribunal. This provision shall not apply to claims which are not incidents of lawful condemnation, construction, and operation.

[Acts 1971, 62nd Leg., p. 324, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.280 to 51.300 reserved for expansion]

SUBCHAPTER G. WATER CHARGES
AND ASSESSMENTS

§ 51.301. Statement Estimating Water Requirements and Payment of Charge

(a) Each person who desires to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop.

(b) At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board.

(c) If a person does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year.

[Acts 1971, 62nd Leg., p. 324, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.302. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more land than his contract specifies, he shall pay for the additional service.

(c) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 51.309 of this code against the crops of a person using water for the service furnished to him.

[Acts 1971, 62nd Leg., p. 324, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.303. Authority to Determine Rules and Regulations

The board may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

- (1) methods, terms, and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing water to persons who did not apply for it before the date of assessment; and

(6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications.

[Acts 1971, 62nd Leg., p. 325, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.304. Board's Estimate of Maintenance and Operating Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months.

[Acts 1971, 62nd Leg., p. 325, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.305. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system.

(b) The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users.

(c) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use.

[Acts 1971, 62nd Leg., p. 325, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 12, eff. May 31, 1971.]

§ 51.306. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district.

(b) Notice shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied.

[Acts 1971, 62nd Leg., p. 325, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.307. Payment of Assessments

(a) All assessments shall be paid in installments at the times fixed by the board.

(b) If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown.

[Acts 1971, 62nd Leg., p. 325, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.308. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of his duties and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week.

(d) The assessor and collector shall use a duplicate receipt book, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district.

[Acts 1971, 62nd Leg., p. 326, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.309. Lien Against Crops

The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessment, interest, and collection or attorney's fees.

[Acts 1971, 62nd Leg., p. 326, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.310. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 51.302 of this code, he shall not be placed on the delinquent list until after the maturity of the note and contract.

[Acts 1971, 62nd Leg., p. 326, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.311. Water Service Discontinued

If a landowner fails or refuses to pay a water assessment when due, his water supply shall be cut off, and no water may be furnished to the land until all back assessments are fully paid. The discontin-

uance of water service is binding on all persons who own or acquire an interest in land for which assessments are due.

[Acts 1971, 62nd Leg., p. 326, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.312. Suits for Delinquent Assessments

Suits for delinquent water assessment may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments provided in this subchapter.

[Acts 1971, 62nd Leg., p. 326, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.313. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.314. Rights of the United States

(a) If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The federal reclamation laws shall also apply.

(b) The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the secretary of the interior, and provisions of the contract.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.315. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses of the district, the balance shall be carried over to the next year.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.316. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days after the date of assessment.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.317. Determining Maintenance and Operation Charges

The board may make, establish, and collect maintenance and operation charges for service on the basis of the quantity of water furnished or appropriate measure of the service rendered.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.318. Charges for Maintenance Expenses

(a) If maintenance charges are based on the quantity of water used, a fixed minimum charge may be made on all land, water connections, or other service entitled to receive and use water. An additional charge may be made for the use of more water than that covered by the minimum charge.

(b) The board may install proper measuring devices or require that they be installed.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.319. Charge to Cities and Towns

If a district includes a city or town or contracts with a city or town to supply water to it, the charge for the use of the water and the time and manner of payment shall be determined by the board or fixed by the contract made with the board.

[Acts 1971, 62nd Leg., p. 327, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.320. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them.

[Acts 1971, 62nd Leg., p. 328, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.321. Water Service: Refused

The board may refuse water service to any person who refuses to pay the charges and assessments for water service or who fails or refuses to pay any taxes levied against his property after six months from the date the taxes become delinquent.

[Acts 1971, 62nd Leg., p. 328, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.322 to 51.330 reserved for expansion]

SUBCHAPTER H. WASTE DISPOSAL AND CONTROL OF STORM WATER

§ 51.331. Authority to Dispose of Waste and Control Storm Water

(a) A district may include in its purposes and plans all improvements, facilities, plants, equipment, and appliances incident to or helpful or necessary to the collection, transportation, processing, disposal, and control of all domestic, industrial, or communal

wastes, whether fluids, solids, or composites, and to gather, conduct, divert, and control local storm water or other local harmful excesses of water.

(b) The district may use any mechanical or chemical means or processes incident, necessary, or helpful to accomplish these purposes, and to conserve and promote the public health and welfare, and to protect, effect, or restore the purity and sanitary condition of the state's water.

[Acts 1971, 62nd Leg., p. 328, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.332. Increasing District's Powers

(a) A district operating under the provisions of this chapter which did not at the time of its creation have the powers provided in Section 51.331 of this code may assume the additional powers in the same manner and by the same procedures as provided in this subchapter, except that it is not necessary to hold an election to confirm the order establishing the district's increased powers.

(b) The board may not issue a money obligation to finance the increased functions, facilities, and powers until after the electors of the district have authorized it by a constitutional and statutory majority vote as provided by this chapter to control the issuance of preliminary bonds or construction bonds as the proposal may require.

[Acts 1971, 62nd Leg., p. 328, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.333. Approval of Petition Creating District

(a) The commission shall hear and determine the petition to create a district to exercise the powers and functions provided in Section 51.331 of this code.

(b) The commission shall hear and determine the petition under the applicable provisions of Sections 51.027-51.031 of this code.

(c) The executive director and the division of sanitary engineering of the Texas Department of Health shall render technical aid concerning the petition and plans of the district.

(d) Nothing in this section impairs the right of the commissioners court to grant a petition under the provisions of Section 51.021 of this code relating to a district to be located wholly in one county if the district will not have the powers provided in Section 51.331 of this code.

[Acts 1971, 62nd Leg., p. 328, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 17, eff. June 10, 1981.]

§ 51.334. Election Provisions

The provisions of Sections 51.035-51.037 of this code shall not apply to an election to create a district to exercise the powers provided in Section 51.331 of this code.

[Acts 1971, 62nd Leg., p. 329, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.335. Other Governmental Agencies Included

(a) A district proposing to exercise the powers and to perform the functions provided in this subchapter may include any part of areas already included within the boundaries of any political subdivision, governmental agency, or body politic of the state.

(b) The district shall not usurp functions or duplicate a service already adequately exercised or rendered by the other governmental agency except under a valid contract with the other governmental agency.

[Acts 1971, 62nd Leg., p. 329, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.336. Additional Land

Additional defined areas may be added to the district in the manner provided in this subchapter for creation of a district.

[Acts 1971, 62nd Leg., p. 329, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.337. Powers of District

The district has all the powers and rights of procedure, financing, construction, maintenance, rehabilitation, operation, and administration conferred by Article XVI, Section 59, of the Texas Constitution, and by this chapter.

[Acts 1971, 62nd Leg., p. 329, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.338. Rules, Regulations, and Charges

(a) The district may adopt and enforce reasonable rules, regulations, and specific charges, fees, or rentals in addition to taxes.

(b) The board shall publish a copy of the adopted orders and regulations once a week for two consecutive weeks in one or more newspapers with general circulation in the district and record the adopted orders and regulations in full in the minutes of the district.

(c) After the required publication and recording, the police power of the district, as provided in this chapter, may be exercised to enforce the intent of the orders, and the district may discontinue a facility or service to prevent an abuse or to enforce payment of a due and unpaid charge.

[Acts 1971, 62nd Leg., p. 329, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.339. Taxes

The district, either solely or in connection with other powers granted by this chapter, may impose taxes in addition to the taxes which may have been or may be imposed by another governmental agency included in the district.

[Acts 1971, 62nd Leg., p. 329, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.340 to 51.350 reserved for expansion]

SUBCHAPTER I. GENERAL FISCAL
PROVISIONS

§ 51.351. Construction Fund

(a) The proceeds from the sale of bonds shall be deposited in the construction fund.

(b) Money deposited in the construction fund shall be used to pay expenses, debts, and obligations necessarily incurred in the creation, establishment, and maintenance of the district and to pay the purchase price of property and construction contracts, including purchases for which the bonds were issued.

(c) If the bonds were issued in accordance with a contract with the United States, debts and obligations may be paid from the construction fund under the terms of or incident to the contract.

(d) After the payment of obligations for which the bonds were issued, any remaining money in the construction fund may be transferred to the maintenance fund.

[Acts 1971, 62nd Leg., p. 330, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.352. Maintenance Fund

(a) The district shall have a maintenance fund which shall include money collected by assessment or other method for the maintenance, repair, and operation of the properties and plant of the district or for temporary annual rental due to the United States.

(b) The maintenance fund shall be used to pay all expenses of maintenance, repair, and operation of the district except the expenses of assessing and collecting taxes for the interest and sinking fund. Expenses for collecting taxes for the interest and sinking fund shall be paid from the interest and sinking fund.

(c) The district may pay from the maintenance fund other expenses for which the payment is not provided in this chapter.

[Acts 1971, 62nd Leg., p. 330, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.353. Amortization and Emergency Fund

(a) The board shall have a competent engineer make an inspection and valuation of the physical property of the district which is subject to decay, obsolescence, injury, or damage by sudden, accidental, or unusual causes, and based on the inspection and valuation, the engineer shall determine as nearly as he can a sufficient amount to be set aside annually to pay for replacement of each item of physical property at the end of its economic life or for the restoration or replacement of any item of physical property if it is lost, injured, or damaged.

(b) The board shall set aside a portion of the maintenance fund as it is collected equal to the

amount determined under Subsection (a) of this section and shall place this money in the amortization and emergency fund. No part of this fund may be spent except to replace amortized property or to replace or restore lost, injured, or damaged property.

(c) Any amount in the amortization and emergency fund which is not spent for the purposes for which the fund was created may be invested in bonds or interest bearing securities of the United States.

(d) The board is not required to create an amortization and emergency fund, but if the board does create the fund, it shall be kept up and maintained. [Acts 1971, 62nd Leg., p. 330, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.354. Expenditure of District Funds

Funds of the district shall be paid out on order of the board with warrants drawn for that purpose. [Acts 1971, 62nd Leg., p. 331, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.355. Depository

Before bonds are sold, the board shall elect a depository for the district as provided in this chapter, and the proceeds of the bonds shall be placed in the depository and disbursed as provided in this chapter.

[Acts 1971, 62nd Leg., p. 330, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.356. Selection of Depository

(a) The board shall select a depository for the district in the manner provided for the selection of a county depository and shall perform all duties provided by law for the selection of a depository, acceptance and approval of bonds, and other acts.

(b) The depository shall execute a good and sufficient bond or security that will be the same as provided by law for a county depository approved by the board to fully protect the district and to guarantee the preservation of the funds and the accountability of the depository as provided by law. The bond or security shall be recorded in the district office and kept in a fireproof vault or safe.

(c) Except as otherwise provided, the duties and the bond and security of the depository shall be the same as provided by law for a county depository. [Acts 1971, 62nd Leg., p. 331, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 566, ch. 223, § 1, eff. May 20, 1975.]

§ 51.357. Functions and Duties of Depository

(a) Funds of the district shall be deposited in the depository and shall be paid out as provided in this chapter.

(b) The funds shall be deposited in the interest and sinking fund account, the construction account,

or the maintenance account, and each account shall be maintained separately.

(c) No money may be paid from the interest and sinking fund account except to pay interest and principal on bonds and to pay the expenses of assessing and collecting taxes to pay for the bonds.

(d) The depository shall make a report of all money received and paid out by it at the end of each month and shall file the report and the vouchers with the records of the district in the depository vault. A copy of the report shall be made available for inspection by any taxpayer and shall be delivered to the successor of the depository.

[Acts 1971, 62nd Leg., p. 331, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.358. Selecting a Bank as Depository in Which a District Director Has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the bank may be selected as the depository if the interested director does not vote on the selection and the approval of the bond.

(b) Before the selection of the bank or the approval of the bond are effective, they must be submitted to and approved by the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, new bids shall be requested and another bank selected as district depository.

[Acts 1971, 62nd Leg., p. 331, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.359. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981

§ 51.360. Maintenance Tax

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, properties, facilities, and improvements of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose.

[Acts 1971, 62nd Leg., p. 332, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.361. Maintenance Tax Election

(a) The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(b) If only a maintenance tax election is called, the order calling the election shall be issued at least 15 days before the day of the election, and the election notice shall be published at least twice in a newspaper of general circulation in the district. The first publication of the notice shall be at least 14 days before the day of the election.

[Acts 1971, 62nd Leg., p. 332, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.362. Expenditure of Surplus Maintenance Tax Funds

If a district has any surplus maintenance tax funds which are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose.

[Acts 1971, 62nd Leg., p. 332, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.363 to 51.370 reserved for expansion]

SUBCHAPTER J. BORROWING MONEY

§ 51.371. Purposes for Borrowing Money

The district may borrow money for any district purpose or combination of district purposes authorized by law.

[Acts 1971, 62nd Leg., p. 333, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 3843, ch. 603, § 1, eff. Aug. 29, 1983.]

Section 2 of the 1983 amendatory act provides:

"This Act applies to negotiable notes entered into and revenue notes and bond anticipation notes issued by a water control and improvement district on or after the effective date of this Act. The borrowing of money by a water control and improvement district before the effective date of this Act is governed by the law as it existed at the time the money was borrowed, and that law is continued in effect for that purpose."

§ 51.372. Revenue Notes

(a) The board may borrow money on negotiable notes of the district to:

(1) mature over a term of not more than 20 years;

(2) bear interest at a rate not to exceed the rate provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), or other applicable law; and

(3) be paid solely from the revenues derived, less reasonable costs of maintenance and operation, from the ownership of all or any designated part of the district's works, plants, improvements, facilities, or equipment.

(b) The board may borrow money on negotiable notes as provided by Subsection (a) of this section without the necessity of calling and holding an election to approve the notes.

(c) The board may issue notes that are first or subordinate lien notes, but an obligation under a note may never be a charge on the property of the district or on taxes levied or collected by the district

but is solely a charge on the revenues pledged for the payment of the obligation.

(d) A part of the obligation under a note may never be paid from taxes levied or collected by the district.

[Acts 1971, 62nd Leg., p. 333, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 3843, ch. 603, § 1, eff. Aug. 29, 1983.]

§ 51.373. Bond Anticipation Notes

(a) The board may declare an emergency if funds are not available to pay the principal of and interest on bonds of the district payable in whole or in part from taxes or to meet other needs of the district and may issue negotiable bond anticipation notes to borrow the money needed by the district.

(b) Bond anticipation notes may bear interest at a rate not to exceed the rate provided by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), or other applicable law and shall mature within one year of their date.

(c) Bond anticipation notes may be issued for any purpose for which bonds of the district may have previously been voted or for the purpose of refunding previously issued bond anticipation notes. A district may enter into a covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of sale of any bonds in the process of issuance at the time the notes are issued for the purpose of refunding the bond anticipation notes. On entering into this covenant, the board shall use the proceeds received from the sale of the bonds in the process of issuance at the time the notes are issued to pay the principal of and interest and redemption price on the bond anticipation notes.

[Acts 1971, 62nd Leg., p. 333, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 3843, ch. 603, § 1, eff. Aug. 29, 1983.]

§ 51.374. Construction

This subchapter shall be liberally and sympathetically construed so that the districts covered by these sections will have the fullest and most flexible powers to comply with all conditions precedent required of the borrower by the lender unless specifically limited by this subchapter.

[Acts 1971, 62nd Leg., p. 333, ch. 58, § 1, eff. Aug. 30, 1971. Renumbered from § 51.384 and amended by Acts 1983, 68th Leg., p. 3843, ch. 603, § 1, eff. Aug. 29, 1983.]

§§ 51.375 to 51.383. Deleted by Acts 1983, 68th Leg., p. 3843, ch. 603, § 1, eff. Aug. 29, 1983

§ 51.384. Renumbered as § 51.374 by Acts 1983, 68th Leg., p. 3843, ch. 603, § 1, eff. Aug. 29, 1983

[Sections 51.385 to 51.400 reserved for expansion]

SUBCHAPTER K. ISSUANCE OF BONDS

§ 51.401. Authority to Issue Bonds of Districts Operating under Article III, Section 52, of the Texas Constitution

A district which is operating under Article III, Section 52, of the Texas Constitution, may issue

bonds and lend its credit in an amount of not more than one-fourth of the assessed valuation of the real property in the district. However, the total indebtedness of any city or town may never be more than the limits imposed by the Texas Constitution.

[Acts 1971, 62nd Leg., p. 335, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.402. Authority to Issue Bonds of Districts Operating under Article XVI, Section 59, of the Texas Constitution

A district operating under Article XVI, Section 59, of the Texas Constitution, may incur debt evidenced by the issuance of bonds which is necessary to provide improvements and maintenance of improvements to achieve the purposes for which the district was created.

[Acts 1971, 62nd Leg., p. 335, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.403. Amount of Debt Limited by Constitution

No district may issue bonds or create indebtedness in an amount which is more than that authorized by the Texas Constitution.

[Acts 1971, 62nd Leg., p. 335, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.404. Issuance of Preliminary Bonds

A district may issue preliminary bonds to create a fund to pay:

- (1) costs of organization;
- (2) costs of making surveys and investigations;
- (3) attorney's fees;
- (4) costs of engineering work;
- (5) costs of the issuance of bonds; and
- (6) other costs and expenses incident to organization of the district and its operation in investigating and determining plans for its plant and improvements and in issuing and selling bonds to provide for permanent improvements.

[Acts 1971, 62nd Leg., p. 335, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.405. Election on Preliminary Bonds

(a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.

(b) The election may be held at the same time as the election to confirm the creation of the district or at a later time.

(c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election.

[Acts 1971, 62nd Leg., p. 336, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.406. Conditions of Preliminary Bonds

(a) After preliminary bonds have been authorized at an election, the board may order the issuance of the bonds in an amount which is not more than the amount stated in the notice of election.

(b) The bonds may be paid serially or on amortization at any time not more than 10 years from their date.

(c) Although the bonds will be known and designated in the records as preliminary bonds, it is not necessary to make this designation on the bonds.

[Acts 1971, 62nd Leg., p. 336, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.407. Tax to Pay Preliminary Bonds

At the time preliminary bonds are issued, a tax shall be levied to pay principal and interest as the bonds mature and to pay the cost of assessing and collecting the taxes.

[Acts 1971, 62nd Leg., p. 336, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.408. Issuance of Bonds

(a) After a district is created and has adopted plans for construction of a plant and improvements, it may issue bonds to pay for constructing the plant and improvements and to pay costs and charges incident to the construction including the cost of necessary property and the retirement of preliminary bonds.

(b) The maximum amount of bonds which may be issued may not be more than the amount of the engineer's estimate plus the additional amounts added by the board in the election order.

[Acts 1971, 62nd Leg., p. 336, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.409. Purposes for Issuance of Bonds

The district may issue bonds to include:

- (1) the cost of organization of the district;
- (2) incidental expenses;
- (3) the cost of investigation and making plans;
- (4) the engineer's work and other incidental expenses;
- (5) the cost of retirement of preliminary bonds;
- (6) the cost of issuing and selling bonds;
- (7) the estimated discount on the bonds;
- (8) the cost of operation of district for the period of construction of the plant and improvements stated in the engineer's report;
- (9) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall be not more than three years from the time the bonds are sold;
- (10) any additional cost or expense made necessary by any change or modification made in the proposed work by the district; and

(11) the payment of interest on or the creation of a reasonable reserve to pay interest on bonds

and notes of the district for a period of time not to exceed three years from the date of the bonds and notes of the district.

[Acts 1971, 62nd Leg., p. 336, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 883, ch. 403, § 1, eff. June 6, 1979.]

§ 51.410. Engineer's Report

(a) Before an election is held to authorize the issuance of bonds, an engineer's report, which includes the plans and improvements to be constructed together with maps, plats, profiles, and data showing and explaining the engineer's report, shall be filed in the office of the district and shall be available for public inspection.

(b) The engineer's report shall contain a detailed estimate of the cost of improvements, including the cost of any property to be purchased, and an estimate of the time required to complete the improvements to the degree to which they may provide service.

(c) The board shall consider the engineer's report and may make changes in the report and note them in the minutes.

[Acts 1971, 62nd Leg., p. 337, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.411. Election Order

(a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of the bonds.

(b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 51.409 of this code.

(c) The election order shall state:

- (1) the proposed maximum interest rate on the bonds;
- (2) the maximum maturity date of the bonds;
- (3) the time and places for holding the election; and
- (4) the names of the election officers.

(d) The election order shall be entered in the minutes of the board.

[Acts 1971, 62nd Leg., p. 337, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.412. Notice of Election

(a) Notice of the bond election, signed by the president and secretary of the board, shall be published once a week for four consecutive weeks in a newspaper with general circulation in the county or counties in which all or part of the district is located. The first publication shall be at least 28 days before the day of the election.

(b) The notice shall include:

- (1) the maximum amount of bonds to be issued;
- (2) the proposed maximum interest rate;
- (3) the maximum maturity date;
- (4) the time and places for holding the election;

(5) a substantial statement of the proposition;

(6) a summary of the engineer's estimate of the cost of the proposed improvements; and

(7) a statement of any estimate or estimates made by the board in its order calling the election.

(c) If a contract with the United States is proposed at the election, the notice shall state the maximum amount of money to be paid for construction purposes, exclusive of penalties and interest.

(d) A copy of the election notice, together with a copy of the published notice with the publisher's affidavit attached, shall be filed in the office of the district.

[Acts 1971, 62nd Leg., p. 337, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.413. Ballots

(a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract."

[Acts 1971, 62nd Leg., p. 338, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.414. Vote at Election

(a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election.

[Acts 1971, 62nd Leg., p. 338, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.415. Order to Issue Bonds or Execute Contract

After the vote is canvassed and the results are declared to be favorable to the proposition, the board shall make and enter an order directing the issuance of the bonds or the execution of a contract with the United States. The bonds or contract shall be in a sufficient amount to pay for the improvements together with all necessary incidental expenses, but the amount may not be more than the amount specified in the election order and notice of election.

[Acts 1971, 62nd Leg., p. 338, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.416. Record of Bond Proceedings Submitted to Attorney General

(a) After a district issues bonds other than preliminary bonds, but before they are sold, the record showing all the proceedings in the creation of the district and the issuance of the bonds shall be filed in the office of the attorney general.

(b) The attorney general shall examine the record and give his opinion on it.

(c) The record may be presented to the attorney general before the bonds are printed, and the bonds may be executed after the record is completed.

(d) After the record is approved, the bonds shall be issued or duly executed.

[Acts 1971, 62nd Leg., p. 338, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.417. Approval and Registration of Bonds

(a) After the bonds are issued and executed, they shall be submitted to the attorney general for approval.

(b) If the attorney general finds that the bonds are issued according to law and are valid, binding obligations of the district, he shall officially certify the bonds and execute a certificate, which shall be filed with the comptroller and recorded in the book kept for that purpose.

(c) The bonds may not be registered with the comptroller until 20 days after the day of the election authorizing the issuance of the bonds.

[Acts 1971, 62nd Leg., p. 339, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.418. Validity of Bonds

After the bonds are approved by the attorney general and registered by the comptroller, they shall be held to be valid, binding obligations of the district in any suit testing their validity. Any person interested in the bonds may file a suit before the bonds are registered to test the validity, but may not bring suit to test validity after the bonds are registered.

[Acts 1971, 62nd Leg., p. 339, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.419. Conditions of Bonds

(a) The bonds may be issued to mature at the end of a term of years or to mature serially at any date which is not later than the maximum maturity date stated in the election order.

(b) The bonds may be issued at any rate of interest which is not more than the rate of interest set in the election order.

[Acts 1971, 62nd Leg., p. 339, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.420. Form of Bonds

(a) The bonds shall be issued in the name of the district and shall be signed by the president and

attested by the secretary, with the seal of the district attached.

(b) The bonds shall be issued in denominations of \$100 or multiples of \$100 and shall be payable annually or semiannually.

(c) The board shall determine and include in the bonds the time, place, manner, and condition of payment of principal and interest on the bonds, but none of the bonds may be made payable more than 40 years from their date.

(d) The lien for payments due to the United States under a contract that was not accompanied by a deposit of bonds with the United States shall be a preferred lien to that of any issue of bonds or any series of any issue of bonds subsequent to the date of the contract.

[Acts 1971, 62nd Leg., p. 339, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 4, eff. May 31, 1971.]

§ 51.421. Authority of Commission over Issuance of District Bonds

(a) The executive director shall investigate and report on the organization and feasibility of all districts that issue bonds under this chapter.

(b) Any district that desires to issue bonds under this chapter shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district.

[Acts 1971, 62nd Leg., p. 339, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 51.422. Commission Supervision of Projects and Improvements

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the commission.

(b) The executive director may inspect the improvements at any time during construction to de-

termine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the commission finds that the project is not being constructed in accordance with the approved plans and specifications, it shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

[Acts 1971, 62nd Leg., p. 340, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 980, ch. 367, § 18, eff. June 10, 1981.]

§ 51.423. Validation Suit

(a) A district may file a suit to determine the validity of the creation of the district and the bonds.

(b) If requested by the secretary of the interior, the district shall file a suit to validate a contract made with the United States.

(c) If a validation suit is filed, the bonds do not have to be approved by the attorney general.

[Acts 1971, 62nd Leg., p. 340, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.424. Effect of Prior Registration

If bonds are approved by the attorney general and registered by the comptroller before a validation suit is filed, the filing of the suit cancels the prior registration.

[Acts 1971, 62nd Leg., p. 340, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.425. Procedure in Validation Suit

(a) A validation suit shall be brought by the district in the district court of any county in which all or part of the district is located or in a district court in Travis County.

(b) The suit shall be in the nature of a proceeding in rem.

(c) Any person who is interested in the suit may intervene and file an answer.

(d) The issue shall be tried and determined by the court and judgment shall be entered on the findings.

(e) Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(50), eff. Aug. 31, 1981.

[Acts 1971, 62nd Leg., p. 340, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(50), eff. Aug. 31, 1981.]

§ 51.426. Notice of Validation Suit

(a) To obtain jurisdiction of all parties to the validation suit, a general notice shall be published.

(b) The notice shall be published once a week for at least two consecutive weeks before the term of the court at which the notice is to be returned. The notice shall be published in a newspaper with general circulation in the county or counties in which the district is located, but if no newspaper is published inside the district, the notice shall be published in a newspaper in the nearest county in which a paper is published.

(c) Notice also shall be served on the attorney general in the manner provided in civil suits.

(d) The attorney general may waive notice if he is furnished a full transcript of the proceedings held in connection with the creation of the district and the issuance of the bonds or held in connection with the authorization of a contract with the United States. A copy of the contract with the United States also must be furnished.

[Acts 1971, 62nd Leg., p. 341, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.427. Duties of Attorney General in Validation Suit

(a) The attorney general shall examine all the proceedings and shall require any further evidence and make any further examination which he considers advisable.

(b) The attorney general then shall file an answer to the suit, submitting the issue of whether the proceedings are valid and the bonds are legal and binding obligations of the district or whether the contract with the United States is legal and binding on the district.

[Acts 1971, 62nd Leg., p. 341, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.428. Judgment in Validation Suit

(a) After the trial of the validation suit, if the judgment of the court is adverse to the district on any issue, the district may make an exception and point out the error, and the error may be corrected by the judge in the manner directed by the court.

(b) The judgment shall be rendered showing that the corrections have been made and that the bonds or the contract with the United States are binding obligations of the district.

(c) After the judgment is entered, it is res judicata in all cases which may arise in connection with:

(1) the collection of the bonds or their interests;

(2) any taxes levied to pay charges or any money required to pay a contract with the United States; and

(3) all matters relating to the organization and validity of the district or the validity of the bonds or contract.

[Acts 1971, 62nd Leg., p. 341, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.429. Effect of Validation Suit

(a) After a final judgment is rendered in the validation suit, the bonds or the contract with the United States shall be incontestable.

(b) No suit may be brought in any court of this state to contest or enjoin the validity of the creation of the district, any bonds which are issued, any contract with the United States, or the authorization of a contract with the United States except in the name of the State of Texas by the attorney general on his own motion or on the motion of any party affected on good cause shown.

(c) The attorney general may not file or prosecute such a suit unless it is based on allegations of fraud disclosed or found after the final judgment in the validation suit was rendered.

[Acts 1971, 62nd Leg., p. 342, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.430. Certified Copy of Decree

(a) After the judgment of the district court is entered, the clerk of the court shall make a certified copy of the decree which shall be filed with the comptroller. The comptroller shall record the decree in the book kept for that purpose.

(b) The certified copy of the decree or a certified copy of the comptroller's record of the decree shall be received in evidence in any suit which may affect the validity of the organization of the district or the validity of the bonds or the contract and shall be conclusive evidence of validity.

[Acts 1971, 62nd Leg., p. 342, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.431. Registration of Bonds and Decree

On the presentation of the bonds together with a certified copy of the decree of the court, the comptroller shall register the bonds in a book kept for that purpose. The comptroller shall attach to each bond a certificate stating that the court's decree has been filed and recorded in his office and shall sign the certificate and attach his official seal.

[Acts 1971, 62nd Leg., p. 342, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.432. Sale of Bonds

(a) After the bonds are issued by the district, the board shall sell the bonds on the best terms and for the best price possible.

(b) The board shall pay the proceeds from the sale of the bonds to the district depository.

(c) The district may exchange bonds for property acquired by purchase or to pay the contract price of work done for the use and benefit of the district.

[Acts 1971, 62nd Leg., p. 342, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.4321. Notice of Bond Sale

(a) Except for refunding bonds, bonds sold to a state or federal agency, and bonds registered with a federal agency, after any bonds are finally authorized and before they are sold by a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district, the board shall publish an appropriate notice of the sale:

(1) at least one time not less than 10 days before the date of sale in a newspaper of general circulation which is published in the county or counties in which the district is located; and

(2) at least one time in one or more recognized financial publications of general circulation in the state as approved by the attorney general.

(b) If a newspaper publication required by Subdivision (1), Subsection (a), of this section is not published in the county, then notice may be published in any newspaper of general circulation in such county.

[Acts 1973, 63rd Leg., p. 616, ch. 262, § 2, eff. Aug. 27, 1973.]

§ 51.433. Tax Levy

(a) At the time bonds are voted, the board shall levy a tax on all property inside the district in a sufficient amount to redeem and discharge the bonds at maturity.

(b) The board annually shall levy or have assessed and collected taxes on all property inside the district in a sufficient amount to pay for the expenses of assessing and collecting the taxes.

(c) If a contract is made with the United States, the board annually shall levy taxes on property inside the district in a sufficient amount to pay installments and interest as they become due.

(d) The board may issue the bonds in serial form or payable in installments, and the tax levy shall be sufficient if it provides an amount sufficient to pay the interest on the bonds, the proportionate amount of the principal of the next maturing bonds, and the expenses of assessing and collecting the taxes for that year.

[Acts 1971, 62nd Leg., p. 342, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 51.434, 51.435. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.436. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall include all taxes collected under this chapter.

(b) Money in the interest and sinking fund may be used only:

- (1) to pay principal and interest on the bonds;
- (2) to defray the expenses of assessing and collecting the taxes; and
- (3) to pay principal and interest due under a contract with the United States if bonds have not been deposited with the United States.

(c) Money in the fund shall be paid out of the fund on warrants by order of the board as provided in this chapter.

(d) The depository shall receive and cancel each interest coupon and bond as it is paid and shall deliver it to the board to be recorded, cancelled, and destroyed.

[Acts 1971, 62nd Leg., p. 343, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.437. Investment of Sinking Fund

(a) The board may invest any portion of the sinking fund of the district in bonds of the United States, the state, any county or city in the state, any irrigation or water improvement district, school district, or other tax bonds issued under the laws of the state.

(b) The funds may be invested if the bonds to be paid with them do not mature within three years from the time the investment is made and if it is necessary to preserve the best interest of the district.

[Acts 1971, 62nd Leg., p. 343, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.4371. Authorized Investments

(a) Bonds and notes issued by a district are legal and authorized investments of banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and sinking funds of cities, towns, counties, school districts, or other political subdivisions of the state and for all public funds of the state or its agencies, including the state permanent school fund.

(b) The bonds and notes of the district are eligible to secure deposits of public funds of the state or cities, towns, counties, school districts, or other political subdivisions or corporations of the state and are lawful and sufficient security for deposits to the extent of their value when accompanied by all unmatured coupons.

[Acts 1981, 67th Leg., p. 323, ch. 129, § 1, eff. Aug. 31, 1981.]

§ 51.438. Refunding Bonds

(a) The district may refund any bonds issued by it by issuing new bonds.

(b) Refunding bonds may be issued only if the old bonds are taken in exchange at their face value or less or new bonds can be sold at a premium and the old bonds retired without loss to the district.

(c) The comptroller may not register the refunding bonds until the old bonds for which the refunding bonds are being issued are presented to him for cancellation or until a valid contract providing for the purchase or exchange of the old bonds is executed and a copy filed in his office.

(d) The comptroller shall keep the refunding bonds until the old bonds are presented to him for exchange or payment, and if the old bonds are presented for payment, the district shall pay them before the refunding bonds are registered.

[Acts 1971, 62nd Leg., p. 344, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.439. Limitation of Authority to Incur Debt and Issue Bonds

(a) For the benefit of purchasers or holders of bonds to be issued or sold, the board of a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the authority of the district to incur debt or issue bonds.

(b) The board shall limit the authority by adopting a resolution which states that during a period of not more than 15 years the district will not issue bonds in an amount of more than 25 percent of the assessed value of taxable real property in the district according to the last assessment for district purposes or in an amount of more than a fixed sum or for certain named purposes.

(c) The board shall publish notice of the adoption of the resolution once a week for two consecutive weeks in a newspaper with general circulation in the district. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 20 percent of the electors of the district is presented within 20 days after the first publication of the notice.

(d) If a petition is filed against the limitation, the resolution will not take effect until it is approved at an election held in the district.

(e) The ballots for the election shall be printed to provide for voting for or against: "The limitation during the term of _____ years of the maximum debt of the district to _____." (The blank spaces shall be filled with the purpose of the election.)

(f) If the limitation is approved at an election or if no petition is filed against the resolution, the district may not issue bonds under any statute or constitutional provision in excess of the limitation during the designated term of years except to complete and make repairs to improvements whose cost will be within the debt limitation.

[Acts 1971, 62nd Leg., p. 344, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.440. Issuing Bonds in Excess of Limitation

(a) A district may issue bonds in excess of a limitation made under Section 51.439 of this code only after the commission has approved the plans and specifications with the estimate of costs.

(b) If the plans, specifications, and estimate are approved, notice of the intention to issue the bonds shall be published once a week for three consecutive weeks in a newspaper with general circulation in the district. The notice shall include a statement of the purpose for issuing the bonds, the amount of the proposed bond issue, and the time the hearing is to be held, which may not be less than 30 days after the notice is first published.

(c) The board shall hold the hearing and any taxpayer, bondholder, or other interested person may appear and be heard.

(d) If the board approves the issuance of the additional bonds in the amount and for the purpose stated in the notice, the question of issuing the bonds shall be submitted to the electors of the district at an election.

[Acts 1971, 62nd Leg., p. 344, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.441. Modifications of Improvements

(a) After bonds are issued or a contract is entered into with the United States, the board may give notice of an election to be held to authorize the issuance of additional bonds or a further contract with the United States.

(b) Additional bonds may be issued or a supplemental contract made if the board considers it necessary to:

- (1) make modifications in the district or its improvements;
- (2) construct further or additional improvements and issue additional bonds on the report of the engineer;
- (3) make a supplemental contract with the United States;
- (4) make, on its own motion, additional improvements or purchase additional property to accomplish the purposes of the district and to serve the best interest of the district.

(c) The board shall enter its findings in the minutes.

(d) The election shall be held and the returns made in the manner provided in this chapter for the original election.

(e) If the result of the election favors the issuance of the bonds or the supplemental contract with the United States, the board may order the bonds issued or the contract made with the United States in the manner provided in this chapter.

(f) If a supplemental contract is made with the United States and bonds are not to be deposited with the United States, it is not necessary to issue bonds. If the district is required to raise money in

addition to the amount of the contract, the bonds shall be issued only in the additional amount needed.

[Acts 1971, 62nd Leg., p. 345, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.442. Issuance of Additional Bonds or Creation of Additional Indebtedness under Certain Conditions

(a) A district may issue additional bonds or create additional indebtedness:

- (1) if works, improvements, and facilities constructed under a plan provided in Section 51.410 or 51.422 of this code are inadequate to accomplish the beneficial results which the district's location and conditions demand;
- (2) if it is considered necessary to make repairs, replacements, or additions to the district's improvements which cost more than \$25,000; or
- (3) if additional money is needed to complete the improvements as planned.

(b) The district shall provide the additional money for the particular purpose in accordance with the provisions of this chapter regulating the creation of bond obligations subject to every limitation with respect to the original proceedings and the substantial protection of the substantive rights of holders of any of the district's outstanding obligations.

[Acts 1971, 62nd Leg., p. 345, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.443. Interim Bonds

After bonds, other than preliminary bonds or notes, are voted by a district, the board may declare an existing emergency with relation to money being unavailable to pay for engineering work, purchase of land, rights-of-way, construction sites, construction work, and legal and other necessary expenses and may issue interim bonds on the faith and credit of the district in the manner provided in Sections 51.444-51.449 of this code to pay these expenses.

[Acts 1971, 62nd Leg., p. 346, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.444. Limitations on Interim Bonds

(a) Interim bonds shall mature not later than 10 years from the date they are issued and shall be redeemable at any time before they mature, as provided in this subchapter.

(b) The principal amount of the interim bonds may not be more than 25 percent of the principal amount of the district's bonds which have been voted but not sold.

(c) Before the issuance of the interim bonds, the board, by resolution, may limit the issue to any amount less than 25 percent, and after the amount is determined and fixed by the resolution, no addi-

tional interim bonds may be issued and sold until all outstanding interim bonds are paid.

[Acts 1971, 62nd Leg., p. 346, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.445. Issuance of Bonds and Levy of Tax

(a) After bonds other than preliminary bonds are voted, the board may authorize the issuance of the bonds in whole or in part as they are needed by the district.

(b) The board shall levy and annually assess and collect sufficient taxes to pay principal and interest on the bonds.

(c) The bonds may be approved by the attorney general and registered by the comptroller before the filing of the report of the commission under Section 51.421 of this code.

[Acts 1971, 62nd Leg., p. 346, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 19, eff. June 10, 1981.]

§ 51.446. Deposit of Bonds to Secure Interim Bonds

(a) As the interim bonds are issued and sold, the board, by order, shall deposit bonds of the district which have been validated by a court or approved by the attorney general and registered by the comptroller as provided in Section 51.417 of this code in the district depository.

(b) The bonds deposited shall be credited to the interest and sinking fund account created to pay the interim bonds.

(c) The principal amount of the bonds deposited shall total at least 110 percent of the principal sum of the series of interim bonds which the bonds are deposited to secure.

(d) The interest rate on the interim bonds may not be more than the interest rate on the bonds deposited to secure them.

[Acts 1971, 62nd Leg., p. 346, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.447. Procedure for Issuance and Sale of Interim Bonds

(a) Interim bonds shall be issued in the name of the district, signed by the president, and attested by the secretary, with the district seal attached to each bond.

(b) The interim bonds may be issued in the denominations determined by the board and shall be approved by the attorney general and registered by the comptroller in the same manner as provided in Section 51.417 of this code.

(c) Interim bonds may be sold in the same manner and on the same terms provided by law for the sale of other bonds of the district.

(d) If interim bonds are sold at less than par value and accrued interest, the improvement bonds issued by the district must be sold at an increase

over the price authorized by law in an amount sufficient to equal the discount allowed on the interim bonds.

[Acts 1971, 62nd Leg., p. 346, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.448. Payment of Interim Bonds

(a) The board shall appropriate the tax levied to pay the bonds deposited to the credit of the interest and sinking fund to pay the interim bonds or as much of that tax as necessary to secure the loan evidenced by the interim bonds.

(b) The proceeds of the tax shall be devoted exclusively to the payment of the principal and interest on the interim bonds.

(c) None of the provisions of this subchapter relating to interim bonds shall be construed as prohibiting the sale of bonds deposited to the credit of the interest and sinking fund to pay interim bonds or of any other bonds of the district, but if any of these bonds are sold, the district depository shall apply the proceeds to the payment of principal and accrued interest on the interim bonds and the remainder to the purposes for which the bonds were authorized.

(d) If none of the bonds are sold at the time an installment on the principal and interest of interim bonds matures, the depository shall cancel the deposited bonds and attached interest coupons in an amount equal to the principal and interest of the interim bonds paid off and discharged.

[Acts 1971, 62nd Leg., p. 347, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.449. Redemption of Interim Bonds

(a) At the option of the board, interim bonds may be redeemed at any time or times before maturity on payment by the district of the principal and accrued interest to the date fixed for redemption by the board.

(b) When interim bonds are called for redemption before maturity, the secretary shall give written notice of the redemption to the bank or banking house named as the place of payment in the bonds or to its successor or assign.

(c) In the notice, the secretary shall designate the bond or bonds called for redemption and payment and shall state number or numbers of the bonds.

(d) The notice shall include the redemption date which shall not be more than 60 days after the date notice of call for payment is made.

(e) If any of the bonds which are called for redemption are not presented, they shall cease to bear interest from and after the date fixed for redemption.

[Acts 1971, 62nd Leg., p. 347, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.450. **Alternate Methods for Paying Bonds**

(a) As used in this section and in Sections 51.450-51.454 of this code, "net revenue" means income or increment which may come from ownership and operation of the improvements which are encumbered less the proportion of the district's revenue income reasonably required to provide for administration, efficient operation, and adequate maintenance of the district's services and facilities which are encumbered. Net revenue does not include money derived from taxation.

(b) A district which expects net revenue from operations may secure its bonds in any one of the following:

- (1) as provided in Section 51.433 of this code;
- (2) by entering into a contract to pledge the net revenue of the district and to mortgage and encumber part or all of the property and facilities, franchise, revenue and income from operations, and everything acquired or to be acquired by the district; or
- (3) as provided in both Subdivisions (1) and (2) of this subsection.

[Acts 1971, 62nd Leg., p. 347, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.451. **Taxes to Secure Certain Bonds**

(a) If bonds are secured as provided in Section 51.450(b)(3) of this code, at the time that net revenue together with money derived from taxes accumulates a surplus in the sinking fund equal to the amount required in the succeeding year to liquidate the interest and principal on the district's bonds maturing in that year, the district's annual tax levies may be lowered to produce not less than 25 percent of the bond maturities for the succeeding year.

(b) If three successive years demonstrate that this net revenue is adequate to protect the district's bonds as they mature, the district's tax may be discontinued until further experience demonstrates the necessity to continue the tax to avoid default in the payment of the district's bonds as they mature.

[Acts 1971, 62nd Leg., p. 348, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.452. **Election**

(a) If the district proposes to issue bonds which will be secured under either Section 51.450(b)(2) or 51.450(b)(3) of this code, the proposition shall be presented at an election held under Section 51.413 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

- (1) "The issuance of bonds and the pledge of net revenue for the payment of the bonds.";
- (2) "The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds."; or

(3) "The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds."

[Acts 1971, 62nd Leg., p. 348, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.453. **Hearing and Election on Certain Bonds**

(a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board.

[Acts 1971, 62nd Leg., p. 348, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.454. **Hearing Before Issuing Certain Bonds**

If a district issues its original bonds under Section 51.450(b)(2) of this code and later desires to issue bonds payable in whole or in part from taxes or to levy a tax for maintenance purposes, the district shall hold a hearing to exclude land, and at the time provided by law, shall hold another hearing to adopt a plan of taxation. These hearings shall be held before an election is called to approve the issuance of tax-supported bonds or the levy of a maintenance tax.

[Acts 1971, 62nd Leg., p. 349, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.455. **Issuance of Revenue Bonds to Construct Extensions and Improvements to Certain Systems**

(a) A district which has adopted a plan for improvements designed to furnish a water and sewer system may also issue its revenue bonds as provided in Section 51.450(b)(2) of this code to construct extensions and improvements to the water and sewer system or to an irrigation system.

(b) The district may pay the revenue bonds by entering into contracts to pledge the net revenue derived from the sale of water for irrigation purposes and service charges obtained from the sale and distribution of water for irrigation purposes.

(c) The bonds may be issued in one or more issues under the terms and conditions considered by the board to be advisable.

[Acts 1971, 62nd Leg., p. 349, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.456 to 51.500 reserved for expansion]

SUBCHAPTER L. TAX PLAN

§ 51.501. **Tax to Pay Preliminary Bonds**

Taxes to pay principal and interest on preliminary bonds shall be levied and collected on the ad valorem basis.

[Acts 1971, 62nd Leg., p. 349, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.502. Hearing to Determine Basis of Taxation

After the board adopts plans for construction of a plant and improvements to accomplish the purposes of the district and after an election is held to authorize the issuance of construction bonds and the levy of a tax to pay for the bonds, the board shall hold a public hearing to determine whether the taxes to pay the construction bonds and maintenance, operation, and administrative costs of the district shall be levied, assessed, and collected on:

- (1) the ad valorem basis;
- (2) the basis of assessment of specific benefits;
- (3) the basis of assessment of benefits on an equal sum per acre; or
- (4) the ad valorem basis for part of the total tax or defined area or property and on the benefit basis for the other part of the tax or defined area or property.

[Acts 1971, 62nd Leg., p. 349, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.503. Notice of Hearing

Notice of the time and place of the hearing and the proposition to be determined shall be published once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall be made not less than 10 days before the day of the hearing set in the notice.

[Acts 1971, 62nd Leg., p. 349, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.504. Conduct of Hearing

(a) At the hearing, any person who is a taxpayer in the district may appear and offer testimony to show which plan of taxation will be most conducive to equitable distribution of taxes.

(b) The hearing may be adjourned from day to day until all persons wishing to testify have been heard.

[Acts 1971, 62nd Leg., p. 350, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.505. Order

(a) The board shall adopt the plan of taxation which will, in its judgment under the evidence, be most conducive to the equitable distribution of the district's tax.

(b) If the plan adopted by the board is made under the provisions of Section 51.512 of this code, the order shall specify the proportion of the tax which falls under each designated classification.

(c) The order of the board is final and cannot be reviewed or questioned in any court except on the ground of fraud or palpable and arbitrary abuse of discretion.

[Acts 1971, 62nd Leg., p. 350, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.506. Changing Tax Plan

If after a tax plan is adopted the directors find that the best interest of the district and the necessity to maintain adequately and equitably the district's tax requires a change in the tax plan, the board may give notice, hold a hearing, and determine a new plan in the manner provided in Sections 51.502-51.505 of this code.

[Acts 1971, 62nd Leg., p. 350, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.507. Effect of Sections 51.501-51.506 of Code

Nothing in Sections 51.501-51.506 of this code shall be held to alter provisions of this chapter relating to districts which have contracts with the United States or to alter or impair the provisions of this code relating to taxes levied to provide local improvements to a defined area which do not affect the entire district.

[Acts 1971, 62nd Leg., p. 350, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.508. Unlimited Authority to Collect Service Charges and Taxes

The provisions of this subchapter do not alter or impair the right of a district to make, establish, and collect maintenance and operation charges for service rendered; to levy and collect taxes to secure funds to maintain, repair, and operate all works and facilities; and to give and maintain proper service for the purposes of its organization.

[Acts 1971, 62nd Leg., p. 350, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.509. Lien Created; No Limitation

Charges or assessments imposed by a district for maintenance and operation of works, facilities, and services of the district shall constitute a lien against the land to which the charges or assessments have been established. No law providing limitation against actions for debt shall apply.

[Acts 1971, 62nd Leg., p. 351, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.510. Purpose of Sections 51.511-51.530 of Code

The purpose of Sections 51.511-51.530 of this code is to give a district the flexibility of taxing power which will permit and cause the tax of the district to be equitably distributed and which will give the highest practicable degree of service under the peculiar physical and economic conditions of the district. To this end, these sections shall be liberally and sympathetically construed.

[Acts 1971, 62nd Leg., p. 351, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.511. Authority to Adopt Alternative Plans of Taxation

A district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, shall adopt a tax plan under the alternative provisions of Sections 51.512–51.530 of this code either at the time of its creation or before the appointment of commissioners of appraisal under this chapter.

[Acts 1971, 62nd Leg., p. 351, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.512. Alternative Plans of Taxation

(a) The district's taxes for all purposes, except to pay the cost of preliminary surveys, may be levied, assessed, and collected on an adopted basis to be chosen from the alternatives provided in this section.

(b) The district's tax plan may be based on any one of the following:

- (1) ad valorem basis;
- (2) benefit basis;
- (3) ad valorem basis to obtain a part or percentage of the total tax or to apply to a specific part of the district and benefit basis applied to the other part of percentage of the tax or to the remaining part of the district; or
- (4) either ad valorem or benefit basis on designated property or defined areas of the district to pay for improvements, facilities, or service peculiar to the defined part of the district and not generally and directly benefiting the district as a whole.

[Acts 1971, 62nd Leg., p. 351, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.513. Adoption of Plan of Taxation

(a) Except as provided in Section 51.512(b)(4) of this code, before the commission of appraisal is appointed and the construction bonds are sold, the board shall adopt a proposed plan of taxation as provided in Sections 51.502–51.505 of this code.

(b) If the tax plan is not based wholly on the ad valorem basis or on the benefit basis, the order adopting the proposed plan shall specify the portion of the tax to be based on the ad valorem basis and the portion to be based on the benefit basis. The board also shall state the physical and economic reasons, the peculiar diverse local needs, or the comparative potential benefits of different areas of designated property in the district which make it necessary or equitable to levy all or part of the tax on a defined part of the district on the ad valorem or benefit basis.

[Acts 1971, 62nd Leg., p. 351, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.514. Notice of Adoption of Plan and Hearing

(a) After the tax plan is adopted, the board shall publish notice once a week for two consecutive

weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice shall state:

- (1) that the tax plan has been adopted;
- (2) that the plan is available for public inspection in the district's office;
- (3) that a hearing on the plan will be held by the board at a specified place and at a particular time, which shall not be less than 15 days nor more than 20 days after the first publication of notice; and
- (4) that all interested persons may appear and support or oppose all or part of the proposed tax plan and offer testimony.

[Acts 1971, 62nd Leg., p. 352, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.515. Order Adopting Tax Plan

(a) After all persons have been heard, the board may approve the proposed tax plan or may change or modify the plan.

(b) The board shall adopt a tax plan which it considers, under the evidence before it, most equitably distributes the tax burden and conserves the public welfare.

(c) The board shall enter its order establishing the tax plan, and the plan shall become the basis for the assessment and collection of taxes until the district adopts a different plan.

(d) The order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

(e) A new plan may be adopted if required to preserve equity of distribution in the manner provided for adopting the original plan; however, no change may be made in the tax plan which will impair the ability of the district promptly to meet all outstanding obligations of the district within the intent of Sections 51.434 and 51.437 of this code.

[Acts 1971, 62nd Leg., p. 352, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.516. Obtaining Funds to Construct, Administer, Maintain, and Operate Improvements and Facilities in Defined Part of District

On adoption of the plan of taxation provided in Section 51.512(b)(4) of this code, the district, under the limitations of this subchapter, may apply separately, differentially, equitably, and specifically its taxing power and lien to a defined area or designated property to provide money to construct, administer, maintain, and operate improvements and facilities peculiar to the defined area or the designated property.

[Acts 1971, 62nd Leg., p. 352, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.517. Adoption of Tax Plan for Only Part of District

If a district adopts the tax plan and assumes the powers in Section 51.512(b)(4) of this code, or if required to conserve and protect the public welfare, the district, in the manner provided in Sections 51.518-51.524 of this code, may provide, pay for, maintain, and operate improvements, service, or facilities peculiar to a designated area or defined property which do not affect the whole district.

[Acts 1971, 62nd Leg., p. 352, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.518. Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan

(a) The board shall define the particular area to be taxed by metes and bounds or designate the property to be served, affected, and taxed.

(b) The board shall adopt a plan for improvements in the defined area or to serve the designated property in the manner provided in Sections 51.410-51.411 of this code.

(c) The board shall adopt a plan of taxation to apply to the defined area or designated property which may or may not be in addition to other taxes imposed by the district on the same area or property. The proportional tax or income contributions of the defined area or designated property and the proportional and equitable interest of the entire district shall be taken into consideration in imposing any tax to an area or piece of property.

[Acts 1971, 62nd Leg., p. 353, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.519. Notice and Hearing

The board shall give notice and hold a hearing in the same manner and for the same purpose as provided in Sections 51.514-51.515 of this code.

[Acts 1971, 62nd Leg., p. 353, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.520. Board's Order

At the hearing, if the board decides to define and serve the proposed separate tax area or separate designated property, it shall enter an order in the record, and if the proposal involves the issuance of bonds, the board shall call an election in the whole district.

[Acts 1971, 62nd Leg., p. 353, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.521. Procedure for Election

(a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied.

[Acts 1971, 62nd Leg., p. 353, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.522. Election not Required in Separate Election Precinct

If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area.

[Acts 1971, 62nd Leg., p. 353, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.523. Ballots

The ballot for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, and levy of a tax to retire the bonds."

[Acts 1971, 62nd Leg., p. 353, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.524. Declaring Result and Issuing Order

If a majority of the electors approve the proposal, the board shall declare the result and, by order, shall establish the area and define it by metes and bounds or designate the specific property and shall fix the tax basis for the area or property. A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice.

[Acts 1971, 62nd Leg., p. 354, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.525. Pledge of Faith and Credit

If at an election the electors approve the issuance of bonds and the levy of a tax which applies only to a defined area, the district may issue bonds which pledge only the faith and credit based on the property values in the defined area; however, the district may pledge the full faith and credit of the entire district under the condition of authorization in Section 51.529 of this code.

[Acts 1971, 62nd Leg., p. 354, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.526. Election in Separate Election Precinct.

(a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence.

[Acts 1971, 62nd Leg., p. 354, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.527. Issuance of Bonds and Levy of Tax for Defined Area or Designated Property

(a) After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the area or to serve the property and shall provide the plant, works, and facilities.

(b) In the appropriate case, the board shall levy, assess, and collect taxes on the property located in the defined area or on the designated property in conformity with the adopted tax plan.

[Acts 1971, 62nd Leg., p. 354, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.528. Contract to Provide Improvements, Facilities, and Services to Designated Property or Area

(a) Property or areas inside or outside the district may, by contract, be designated to obtain improvements, facilities, or service for the designated area or property.

(b) The designation shall be based on a written petition in conformity with the laws authorizing contracts by a petitioner or person owning, controlling, or governing the property or area to be designated.

(c) The board may make the designation in a contract to provide, administer, maintain, and operate the desired improvements, facilities, or service for the designated area or property, and the designated area or property shall be subject to being made the basis of the bonds and may be subject to a tax lien in amount to retire the obligations incurred by the district to provide the facilities, improvements, or service and to cover the expenses necessary to administer, maintain, and operate the improvements and facilities under the contract.

(d) The contract may not violate the law of this state or the United States and may not result in impairing a vested right or causing the district to fail to serve fully and permanently water demands in the district in the order of preference of uses.

(e) The contract may provide that one governing body may establish the contractual and statutory tax lien in behalf of the district and may levy,

assess and collect the tax for and on behalf of the district.

(f) The district may not issue bonds pledging the full faith and credit of the district under this section or under Section 51.517 of this code without submitting the proposition to the electors of the whole district under the provisions of this subchapter or under the provisions authorizing the issuance of construction bonds.

[Acts 1971, 62nd Leg., p. 354, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.529. Authority of District

(a) If a majority of the electors in the whole district approve the proposal, the district may issue its bonds to provide the plant, improvements, and facilities peculiar to the defined area or designated property or peculiar to a contract for service and may pledge the full faith and credit of the district to pay for the bonds.

(b) The district shall have a lien on the property in the defined area or on the designated property and may levy, assess, and collect or have levied, assessed, and collected taxes in the area or on the property to protect the district from or to compensate any liability incurred on behalf of the defined area or designated property.

[Acts 1971, 62nd Leg., p. 355, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.530. Administrative Authority of Board

The board shall administer all business incident to the creation and operation of a defined area or service to designated property unless otherwise provided by contract.

[Acts 1971, 62nd Leg., p. 355, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.531. Master District; Taxing Authority

A master district may levy and collect taxes, equitably distributed, which shall be in addition to other taxes which may be levied by the several districts constituting the master district.

[Acts 1971, 62nd Leg., p. 355, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.532. Taxes in Districts Consisting of a City, Town or Municipal Corporation

If a city, town, or municipal corporation is constituted a district operating under this chapter, taxes levied in the district may be assessed and collected in the manner provided in Sections 51.533-51.538 of this code.

[Acts 1971, 62nd Leg., p. 355, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.533. Order Fixing Rate of Taxation

(a) The board shall issue an order fixing the rate of taxation and levying a tax. The order shall be

signed by the president and secretary of the district, and the district seal shall be attached.

(b) The board shall enter the order in their minutes and file a copy of the order with the secretary of the city, town, or municipal corporation.

(c) The secretary of the city, town, or municipal corporation shall record the order in a book kept in his office for that purpose and shall make and deliver a copy of the order to the assessor and collector of the city, town, or municipal corporation.

[Acts 1971, 62nd Leg., p. 356, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.534. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.535. Provisions of Chapter Inapplicable to District

If taxes are levied, assessed, and collected under Sections 51.533-51.538 of this code, the provisions of this chapter relating to assessment and collection of taxes do not apply to the district and it is not necessary for the district to appoint an assessor and collector.

[Acts 1971, 62nd Leg., p. 356, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.536. Compensation of City Assessor and Collector

The board shall pay to the city assessor and collector and other city officers reasonable compensation for the services performed by them for the district. The amount of compensation shall be fixed in advance of the performance of the duties.

[Acts 1971, 62nd Leg., p. 356, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.537. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.538. Election Required

Taxes levied, bonds issued, and indebtedness incurred by a district operating under Sections 51.533-51.538 of this code are subject to the provisions of the constitution and this chapter which require an election to authorize tax levies, bonds, and indebtedness.

[Acts 1971, 62nd Leg., p. 356, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.539 to 51.560 reserved for expansion]

SUBCHAPTER M. TAXATION ON THE AD VALOREM BASIS

§ 51.561. Assessment and Collection of District Taxes

The assessor and collector shall assess and collect taxes for the district.

[Acts 1971, 62nd Leg., p. 357, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 51.562 to 51.590. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.591. Attorney to File Suits to Collect Delinquent Taxes

(a) The board shall on or before April 1 of each year employ an attorney to file suits to collect all delinquent taxes.

(b) The attorney is entitled to receive a fee of 10 percent of the amount of all delinquent taxes collected or paid after suits are filed. The fees shall be charged as court costs.

[Acts 1971, 62nd Leg., p. 362, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 51.592 to 51.601. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

[Sections 51.602 to 51.630 reserved for expansion]

SUBCHAPTER N. TAXATION ON THE BENEFIT BASIS

§ 51.631. Method of Taxation for District under Contract with United States

A district which is operated under contract with the United States may adopt the plan to levy and collect taxes on the benefit basis instead of the ad valorem basis and determine taxes under the provisions of Sections 51.632-51.634 of this code.

[Acts 1971, 62nd Leg., p. 364, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.632. Assessment Record

When necessary, the board shall apportion and assess the benefits conferred on property in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property may be more than the benefit which accrues to the property from the

organization, operation, and maintenance of the district and its improvements.

[Acts 1971, 62nd Leg., p. 364, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.633. Notice of Taxes

After the board makes the record, it shall mail to each property owner whose name appears in the record notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax.

[Acts 1971, 62nd Leg., p. 364, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.634. Decision After Hearing

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. The decision of the board is final.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.635. Method of Taxation for District not under Contract with the United States

If a district which is not operating under contract with the United States adopts the benefit basis plan for taxation, the levy, assessment, equalization of property values, and collection of taxes shall be made in the manner provided in Sections 51.636-51.648 of this code.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.636. Commissioners of Appraisalment

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisalment. The commissioners shall be freeholders but not owners of land within the district which they represent.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.637. Compensation of Commissioners

On approval by the board, each commissioner is entitled to receive \$10 a day for each day he actually serves, plus all necessary expenses.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.638. Notice of Appointment and Meeting

Immediately after the commissioners of appraisalment are appointed, the secretary of the board shall give written notice to each appointee of his appoint-

ment and of the time and place of the first meeting of the commissioners.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.639. First Meeting of Commissioners

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon after that time as possible.

(b) At the meeting the commissioners shall take and subscribe an oath to discharge faithfully and impartially their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisalment and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.640. Assistance for Commissioners

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties.

[Acts 1971, 62nd Leg., p. 365, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.641. Viewing Land and Other Property and Improvements in District

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and the public roads, railroads, rights-of-way, and other property and improvements located in the district and shall assess the amount of the benefits and damages that will accrue to the land, roads, railroads, rights-of-way or other property or improvements in the district from the construction of the improvements.

[Acts 1971, 62nd Leg., p. 366, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.642. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

- (1) the name of the owner of each tract of land which is subject to assessment;
- (2) a description of the property;

(3) the amount of the benefits or damages assessed on each tract of land;

(4) the time and place at which a hearing will be held on the report to hear objections; and

(5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The day set in the report for the hearing may not be later than 20 days after the report is filed.

[Acts 1971, 62nd Leg., p. 366, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.643. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

(1) the time and place of the hearing;

(2) that the commissioners' report has been filed;

(3) that interested persons may examine the report and make objections to it; and

(4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit also shall be filed with the commissioners of appraisal and the clerk of the commissioners court.

[Acts 1971, 62nd Leg., p. 366, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.644. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land that is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and make determinations on the objections submitted and may make necessary changes and modifications in the report for objections which are sustained.

[Acts 1971, 62nd Leg., p. 367, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.645. Witnesses at the Hearing

At the hearing, interested parties may appear in person or by attorney and are entitled, on demand, to have the chairman of the commissioners of ap-

praisement issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses.

[Acts 1971, 62nd Leg., p. 367, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.646. Costs of Hearing

The commissioners may adjudge and apportion the costs of the hearing in any manner they consider equitable.

[Acts 1971, 62nd Leg., p. 367, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.647. Commissioners' Decree

(a) After the commissioners have made a final decision, they shall issue a decree confirming their report insofar as it remains unchanged and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to land and other property in the district are final and conclusive.

[Acts 1971, 62nd Leg., p. 367, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.648. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of land and other real property in the district in proportion to the net benefits to the land or other property stated in the final judgment and decree.

[Acts 1971, 62nd Leg., p. 367, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.649. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow.

[Acts 1971, 62nd Leg., p. 367, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.650. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 51.649 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Uniform assessment of benefits of \$_____ per acre on all irrigable land in the district, and the assessment of \$_____ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts to fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted.

[Acts 1971, 62nd Leg., p. 368, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.651. Excluding Nonirrigable Land From District

If the owner of land which is classed nonirrigable under the uniform acreage valuation objects to the amount of charges fixed against him by the order calling the election or by the result of the election, he may have his nonirrigable land excluded from the district by filing an application for exclusion as provided by law within 10 days after the election is held.

[Acts 1971, 62nd Leg., p. 368, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.652. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land in the district, and it is not necessary to annually fix the value of the land. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land.

[Acts 1971, 62nd Leg., p. 368, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.653. Preparing Tax Rolls

(a) The board shall examine the tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board shall add to the tax roll any property which was left off and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board that his property has not been properly classified.

The board shall consider the protest and enter its findings in the minutes.

[Acts 1971, 62nd Leg., p. 368, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.654. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.655. Law Governing Administration of Benefit Tax Plan

In a district that levies taxes on a benefit basis, the rate of taxation and the assessment and collection of taxes shall be governed by the law relating to ad valorem taxes to the extent applicable.

[Acts 1971, 62nd Leg., p. 369, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.656. Irrigating Nonirrigable Land

If land which is classed as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classed as irrigable.

[Acts 1971, 62nd Leg., p. 369, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.657. Taxation in District Constructing Levees or Drainage Systems

(a) A district created to construct levees or works and plants to protect from overflow or created to construct drainage systems may adopt the plan of assessing benefits at an equal sum on each acre of land in the district in the manner provided in Sections 51.650-51.656 of this code.

(b) The proposition included in the election order shall be printed to provide for voting for or against: "Uniform assessment of benefits for _____ purposes."

[Acts 1971, 62nd Leg., p. 369, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 51.658 to 51.690 reserved for expansion]

SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS

§ 51.691. Excluding Land From District

After a district is organized, preliminary surveys are completed, and plans adopted by the district for the construction of a plant and improvements, and before the board calls an election for the authorization of construction bonds, the board must exclude land or other property from the district under the

provisions of Sections 51.692–51.701 of this code, if the exclusions are practicable, just, or desirable.

[Acts 1971, 62nd Leg., p. 369, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.692. Hearing to Announce Proposed Exclusions and to Receive Petitions

Before the election to authorize construction bonds, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

[Acts 1971, 62nd Leg., p. 369, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.693. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest.

[Acts 1971, 62nd Leg., p. 369, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.694. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds the land to be excluded. A petition for exclusion of other property must describe the property to be excluded for identification.

(b) A petition for exclusion shall be filed with the district at least 10 days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

[Acts 1971, 62nd Leg., p. 370, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.695. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary, would be unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection

of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be bettered as to conditions of living and health, or served with water, or protected from flood, or drained, or freed from interruption of traffic caused by excess of water on the roads, highways, or other means of transportation serving the land, or otherwise benefited by the district's proposed improvements.

[Acts 1971, 62nd Leg., p.370, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.696. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

[Acts 1971, 62nd Leg., p. 370, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.697. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subdivision (1) or (2) or, if appropriate, in Subdivision (3) of Section 51.695 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subdivisions and shall redefine the boundaries of the district in the order to embrace all land not excluded.

[Acts 1971, 62nd Leg., p. 370, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.698. Suit to Review, Etc.

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order.

[Acts 1971, 62nd Leg., p. 371, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.699. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

[Acts 1971, 62nd Leg., p. 371, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.700. Trial Procedure

(a) A suit to review, modify, suspend, or set aside the order of the board shall be a trial de novo as that term is understood in an appeal from a justice of the peace court to a county court. The trial shall be strictly de novo with no presumption of validity or reasonableness or presumption of any character in favor of the order.

(b) The decision shall be made on a preponderance of the evidence and facts found in the trial as in other civil cases, independently of any action taken by the board.

(c) The procedure for the trial and the determination of the orders and judgments to be entered shall be governed solely by the rules of law, evidence, and procedure of the state courts according to the constitution, statutes, and rules of procedure for the trial of civil actions.

(d) The so-called "substantial evidence" rule enunciated by the courts for orders of other administrative or quasi-judicial agencies shall not apply in the trial.

[Acts 1971, 62nd Leg., p. 371, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.701. Appeal

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 51.698-51.700 to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

[Acts 1971, 62nd Leg., p. 371, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.702. Exclusion of Nonagricultural and Nonirrigable Land From the District

After the district is organized, acquires facilities with which to function as an irrigation district, and votes, issues, and sells bonds for the purposes for which the district was organized, land within the district subject to taxation which is not agricultural land or cannot be irrigated in a practicable manner may be excluded from the district by complying with the provisions of Sections 51.703-51.713 of this code.

[Acts 1971, 62nd Leg., p. 371, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.703. Prerequisite to Application for Exclusion

The owner of land in the district which is not agricultural land or cannot be irrigated in a practicable manner may apply for its exclusion from the district if all taxes levied and assessed by the district on the land to be excluded have been fully paid,

including all bond tax and flat water rate assessment.

[Acts 1971, 62nd Leg., p. 371, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.704. Substituting Land of Equal Acreage and Value

Land which can be irrigated in a practicable manner of at least equal acreage and equal value to the land being excluded must be added to the district simultaneously with the exclusion of the nonagricultural or nonirrigable land.

[Acts 1971, 62nd Leg., p. 372, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.705. Securing Application to Substitute Land

The board may require an owner of land in the district who has applied for the exclusion of his nonagricultural or nonirrigable land from the district to procure an application of the owner of land adjoining the boundaries or the canals of the district, and capable of being irrigated in a practicable manner from the facilities of the district, for inclusion in the district of his land in an amount and value at least equal to the land which is to be excluded under the application of the owner of nonagricultural or nonirrigable land. Each application shall set forth the facts concerning the land to be excluded from and the land to be added to the district, including evidence of their reasonable market value.

[Acts 1971, 62nd Leg., p. 372, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.706. Application of Owner of New Land to be Substituted

The owner of the new land to be added shall submit an application setting forth that the owner of the new land assumes the payment of all taxes to be levied on his land by the district after the date the land is added to the district. The application also shall set forth an agreement by the owner of the new land that the land will be subject to future taxes for bond tax and flat rate and all other assessments levied and assessed by the district as though the land had been incorporated originally in the district. The application also shall contain an agreement by the owner of the new land that the land will be subject to the same liens and provisions as all other land in the district and subject to the statutes governing all other land in the district.

[Acts 1971, 62nd Leg., p. 372, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.707. Consent of Outstanding Bondholders

(a) The board shall communicate the contents of the applications to exclude nonagricultural or nonirrigable land and to include an equal amount of irrigable land to the holders of outstanding bonds voted, issued, sold, and delivered by the district and

payable from taxes levied on property in the district.

(b) If the consent in writing of 95 percent or more of the bondholders to the plan is filed with the board, the board may hold a hearing on the applications.

[Acts 1971, 62nd Leg., p. 372, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.708. Notice of Hearing on Applications

The board shall give notice of the hearing on the applications by publishing the time, place, and nature of the hearing one time in a newspaper published in a county in which all or part of the district is located. The newspaper must have been published regularly for more than 12 months preceding the date of the publication of the notice and must have circulation in the district. The notice shall be published not less than 10 days nor more than 20 days before the date of the hearing.

[Acts 1971, 62nd Leg., p. 372, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.709. Hearing Procedure

The board shall hear all interested parties and all evidence in connection with the applications.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.710. Board's Resolution to Substitute Land

If the board finds that all the conditions provided for the exclusion of land and inclusion of other land in the district exist, it may adopt and enter in its minutes a resolution to exclude land which is nonagricultural or nonirrigable in a practicable manner and include land which may be irrigated from the facilities of the district in a practicable manner.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.711. Liability of Excluded and Included Land

The land excluded from the district is free from any lien or liability created on the excluded land by reason of its having been included in the district. Land added to the district is subject to all laws, liens, and provisions governing the district and the land in the district.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.712. Duty to Advise Executive Director

The board shall furnish the executive director a detailed description of the land excluded and a detailed description of the land included within 30 days after the exclusion and inclusion of land under

the provisions of Sections 51.702-51.711 of this code.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 51.713. Right to Serve New Land Included in District

The district has the same right to furnish water service to the included land that it previously had to furnish service to the excluded land. The mere inclusion of a larger total acreage than that excluded does not give the district the right to irrigate a larger total acreage or to appropriate a larger quantity or volume of public water for irrigation than the district would have had the right to irrigate or to appropriate before the exclusion and inclusion of the land.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.714. Adding Land by Petition of Landowner

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.715. Petition Signed and Executed

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

[Acts 1971, 62nd Leg., p. 373, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.716. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water supply, canals, and other improvements are sufficient to supply the added land without injuring land already in the district.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.717. Granting and Recording Petition

The addition of land to the district by landowner's petition is final at the time the board grants the petition, and no other procedure, election, or action is required. A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 324, ch. 129, § 2, eff. Aug. 31, 1981.]

Section 3 of the 1981 amendatory act provided:

"(a) This section applies to any water control and improvement district that has added or has attempted to add land by petition of

a landowner to the district under Sections 51.714 through 51.717, Water Code, before the effective date of this section.

"(b) The proceedings for addition of land by each water control and improvement district covered by this section are validated in all respects as of the date on which the proceedings occurred. The proceedings may not be held invalid because any proceeding relating to the addition of land was not in accordance with law.

"(c) Without limiting Subsection (b) of this section, it is expressly provided that an attempted addition of land by a water control and improvement district covered by this section that occurred before the effective date of this section may not be held invalid because it did not comply with the procedures for addition of land by petition of a landowner to the district under Sections 51.714 through 51.717, Water Code, or because an election under Section 51.722, Water Code, was not held."

§ 51.718. Adding Certain Territory by Petition

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 50.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.719. Hearing on Petition

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.720. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.721. Resolution to Add Territory

If the board finds on hearing the petition that the addition would be of benefit to the district and that the water supply, canals, and other improvements are sufficient to supply the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.722. Elections to Ratify Annexation of Land

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.

[Acts 1971, 62nd Leg., p. 374, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.723. Notice and Procedure of Election

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by the provisions of Subchapter E of this chapter.

[Acts 1971, 62nd Leg., p. 375, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.724. Liability of Added Territory

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

[Acts 1971, 62nd Leg., p. 375, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.725. Adding Territory Annexed to a City in the District

Territory annexed to a city included in a district organized under the provisions of this chapter and providing water or sewer services to the city or its inhabitants may be added to the district by complying with the provisions of Sections 51.726-51.729 of this code.

[Acts 1971, 62nd Leg., p. 375, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.726. Hearing to Add Territory Annexed to a City

After final passage of an ordinance or resolution annexing territory to the city, the board may issue a notice of a hearing on the question of annexing any part of the territory to the district.

[Acts 1971, 62nd Leg., p. 375, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.727. Notice of Hearing

(a) The notice of the hearing shall state the date and place of the hearing and a description of the area proposed to be annexed. In lieu of the description, the notice may make reference to the annexation ordinance of the city.

(b) The board shall publish the notice one time at least 10 days before the day of the hearing in a

newspaper with general circulation in the city which made the annexation.

(c) Additional notice shall be given to a railroad with any railroad right-of-way or property in the territory to be annexed by certified mail at its latest address appearing on the tax rolls of the city, district, or county.

[Acts 1971, 62nd Leg., p. 375, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.728. Resolution Adding the Territory

If the board finds from the hearing that the territory proposed to be annexed will be benefited by the facilities or services afforded or to be afforded by the district, the board shall adopt a resolution annexing the territory to the district.

[Acts 1971, 62nd Leg., p. 375, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.729. Election to Assume Bonds and Authorize Tax

After territory is added to the district, the board may call an election within the district to determine whether the district as enlarged shall assume the outstanding tax-supported bonds, and the tax-supported bonds voted but not yet sold, and whether an ad valorem tax shall be levied on all taxable property in the district as enlarged for the payment of the bonds. The election shall be called and held in the manner provided in this chapter for elections for the issuance of bonds.

[Acts 1971, 62nd Leg., p. 376, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.730. Extending Municipal District to Include Lands Annexed to City

If a district is a "Municipal District," and includes the total area of a city or town, and furnishes or has plans to furnish all or part of a water supply, sanitation facilities, flood protection, or other service for the general benefit of the inhabitants of the embraced city or town, the boundaries of the district shall be extended automatically to include land which the embraced city or town annexes by extending its boundaries to include land that is not already included in the district. The land annexed to the city or town shall constitute part of the district, but the inclusion in the district is not final until the board publishes notice of a hearing, holds a hearing, and hears evidence to consider the exclusion or retention in the district of any part of the added land, according to the applicable provisions of Sections 51.691-51.701 of this code.

[Acts 1971, 62nd Leg., p. 376, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.731. Liability of Land Added to a District Operating under Article XVI, Section 59

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution,

the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district.

[Acts 1971, 62nd Leg., p. 376, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.732. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 51.733-51.736 of this code.

[Acts 1971, 62nd Leg., p. 376, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.733. Elections to Approve Consolidation

(a) After the directors of each district have agreed on the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

[Acts 1971, 62nd Leg., p. 376, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.734. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district, except for the payment of debts created before consolidation, and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to wind up the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to

serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer.

(f) The consolidation agreement may provide for the establishment of five voting precincts described in the agreement and for the election of one director from each precinct. A district that adopts the precinct method of election will retain that method if it elects to be governed by another chapter of this code.

[Acts 1971, 62nd Leg., p. 377, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1764, ch. 712, § 1, eff. Aug. 29, 1977.]

§ 51.735. Debts of Original Districts

After two or more districts are consolidated, the debts of the original districts are protected and are not impaired. These debts may be paid by taxes or assessments levied on the land in the original districts as if they had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement.

[Acts 1971, 62nd Leg., p. 377, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.736. Assessment and Collection of Taxes

After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district.

[Acts 1971, 62nd Leg., p. 377, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.737. Exclusion of Land

After a district is organized, acquires facilities, and votes, issues, and sells bonds for the purposes for which the district was organized, any land that has been added to the district by an order resulting from a petition of the owner or owners of the land added, may be excluded from the district by complying with the provisions of Sections 51.738 through 51.747 of this code.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.738. Applicable Only to Land Annexed After Formation of District

Sections 51.737 through 51.747 of this code shall only be applicable to land which was annexed after the district was formed and bonds were voted, issued, and sold.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.739. Application to Exclude Land

(a) A petition for exclusion of land under Sections 51.737 through 51.747 of this code must accurately describe the land to be excluded by metes and bounds or by reference to a plat recorded in the plat records of the county or counties in which the district is located.

(b) A petition for exclusion by the owner or owners of the land to be excluded shall be filed with the district at least 15 days before the hearing on the petition for exclusion and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.740. Hearing

On receipt of a petition to exclude land as provided in Sections 51.737 through 51.747 of this code, the board shall hold a hearing to consider the petition for exclusion.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.741. Notice of Hearing

When the board sets a hearing as provided in Section 51.740 of this code, the board shall publish notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the date of the hearing.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.742. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. At the hearing, the board shall first consider the petition or petitions for exclusion of land and shall hear evidence as to the grounds for exclusion. The board shall then give any voter or property owner within the district or other interested party an opportunity to be heard and present evidence with regard to approval of or protest against the proposed exclusion.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.743. Grounds for Exclusion

The board shall exclude land meeting the prerequisites of Sections 51.737 and 51.738 of this code, if it finds that either of the following grounds are present:

- (1) to provide to the land to be excluded the necessary benefits, services, and protections on a basis substantially equal with the remainder of the district would create an undue economic burden on the remainder of the district, the land to be excluded, or the facilities of the district; or

(2) the anticipated or necessary financing for or availability of the necessary facilities, benefits, services, or protections to the land to be excluded are not reasonably available and no economically feasible alternative exists to provide the necessary facilities, benefits, services, or protections.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.744. Findings by the Board

Before determining to exclude any land under Sections 51.737 through 51.747 of this code, the board shall make the following findings:

- (1) no district facilities have been installed on the land to be excluded;
- (2) no district funds have been spent to construct or enlarge the facilities of the district for the sole purpose of providing benefits, services, or protections to the land to be excluded; and
- (3) no bonds have been approved by the voters and issued by the district after the land to be excluded was annexed to the district.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.745. Excluding Land

After considering all engineering data and other evidence presented to it, if the board makes the findings provided in Section 51.744 of this code and determines that it would be in the best interest of the district to exclude the land, the board shall enter an order excluding all land meeting the conditions and shall redefine the boundaries of the district in order to embrace all land not excluded.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.746. Payment of Taxes

Before an order excluding land under Sections 51.737 through 51.747 of this code becomes effective, all taxes levied and assessed by the district on the land to be excluded shall be fully paid.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

§ 51.747. Review

Any person owning an interest in land affected by the order excluding land may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order. The venue of the action shall be in a district court located in the county in which the district is located and shall be tried in accordance with Sections 51.699 through 51.701 of this code.

[Acts 1977, 65th Leg., p. 1260, ch. 485, § 1, eff. Aug. 29, 1977.]

[Sections 51.748 to 51.780 reserved for expansion]

SUBCHAPTER P. DISSOLUTION OF DISTRICT

§ 51.781. Dissolution of District Prior to Issuance of Bonds

(a) If the electors of a district reject the proposal to issue construction bonds by a constitutional or statutory majority vote, the board must dissolve the district and liquidate the affairs of the district as provided in Sections 51.781-51.792 of this code.

(b) Subject to the provisions of Subchapter G of Chapter 50 of this code, if a district finds at any time before the authorization of construction bonds or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

(c) Subject to the provisions of Subchapter G of Chapter 50 of this code, if 20 percent of the qualified voters of a district petition the board for a hearing on a proposal to dissolve the district and deposit with the board an amount estimated to cover the actual cost of giving notice and holding the hearing, the board shall publish notice of the hearing within 10 days and shall hold the hearing within 40 days after the filing of the petition, as provided in Sections 51.782-51.785 of this code. If the finding is against the petition, the deposit shall be applied to pay the cost of giving notice and holding the hearing.

[Acts 1971, 62nd Leg., p. 377, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.782. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district. The notice must be posted at least 10 days before the hearing on the proposed dissolution of the district.

[Acts 1971, 62nd Leg., p. 378, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.783. Hearing

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

[Acts 1971, 62nd Leg., p. 378, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.784. Board's Order to Continue or Dissolve District

The board shall determine from the evidence whether the best interests of the persons, land, and property in the district will be promoted by prosecuting the district's plans or whether the best interests of the persons and property in the district will

be served by dissolving the district, and the board shall enter the appropriate findings and order in the record.

[Acts 1971, 62nd Leg., p. 378, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.785. Judicial Review of Board's Order

The board's decree to continue or to dissolve the district shall be final and cannot be judicially reviewed except on the ground of fraud, palpable error, or gross abuse of discretion.

[Acts 1971, 62nd Leg., p. 378, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.786. Appointment of Trustee

(a) If the board orders the dissolution of the district, it shall appoint a director or some other competent person as trustee to close the affairs of the district as soon as practicable.

(b) The board shall determine the term of service and the amount of compensation for the trustee.

[Acts 1971, 62nd Leg., p. 378, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.787. Discharge of District's Obligations by Trustee

(a) The trustee shall reduce all assets and resources of the district to possession and money and apply them to discharge the outstanding obligations of the district, having regard to specific funds.

(b) If required, the board shall levy, assess, and collect sufficient additional taxes to pay all necessary expenses and outstanding obligations of the district.

[Acts 1971, 62nd Leg., p. 378, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.788. Discharge of Trustee

The trustee shall be discharged when all obligations of the district are paid and the trustee's account is verified and settled.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.789. Final Order of Dissolution

After all obligations are paid and the trustee is discharged, the board shall enter its final order of dissolution and record the final order in the deed records of the county or counties in which the district is located.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.790. Water Rights of Dissolved District

Water rights held from the state shall revert to the state and may not be assigned by the district in anticipation of dissolution.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.791. Taxes in Excess of District's Obligations

(a) If taxes have been collected by the dissolved district in excess of the amount required to liquidate the obligations of the district, the excess shall be paid ratably to the county treasurer or treasurers of the county or counties in which the district was located.

(b) The commissioners courts shall credit the money received from the dissolved district to the interest and sinking fund for any outstanding county bonds. If the county has no outstanding bonds, the money may be applied as the commissioners court lawfully directs.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.792. Permanent Record of Dissolved District

All records, vouchers, and accounts of the district shall be delivered to the commissioners court of the county in which the district's principal office was located and shall be preserved as a permanent record.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.793. Dissolution of District for Failure to Complete Plant

Subject to the provisions of Subchapter G of Chapter 50 of this code if a district has not within 10 years from the date of its creation commenced and completed the construction of a plant and improvements to carry out the purposes of its creation in accordance with the plans adopted by the district, the board may enter a resolution in its minutes to dissolve the district under the provisions of Sections 51.794-51.828 of this code. After compliance with these provisions, a vote of the electors of the district, and the payment of its valid, enforceable indebtedness, the district may be dissolved.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.794. Resolution to Dissolve District

The board shall find in its resolution to dissolve the district that the plans of the district are impracticable or that the purposes of the district should be abandoned and shall state the reasons for the finding.

[Acts 1971, 62nd Leg., p. 379, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.795. Statements of Indebtedness and Expenses

The board shall prepare or have prepared and shall approve a statement of all valid, enforceable indebtedness of the district and shall enter the statement in the minutes. The board shall prepare or have prepared an estimate of all expenses incurred or to be incurred in the dissolution of the

district and in the collection of sufficient taxes to pay all valid, enforceable indebtedness of the district.

[Acts 1971, 62nd Leg., p. 380, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.796. Election to Approve Dissolution of District and Issuance of Dissolution Bonds

The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses.

[Acts 1971, 62nd Leg., p. 380, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.797. Maximum Amount, Interest Rate, and Maturity of Bonds

The maximum amount of bonds to be voted on and issued shall not be more than the total amount of the approved valid, enforceable indebtedness and the estimate of expenses, exclusive of the estimated cost of collection of taxes. The maximum amount of bonds, exclusive of interest and expenses of collection, to be issued for fees and expenses of dissolution of the district shall not be more than an amount equal to \$2 times the number of acres in the district. The bonds shall mature serially over a period of not more than seven years.

[Acts 1971, 62nd Leg., p. 380, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.798. Notice of Election

(a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 51.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election.

[Acts 1971, 62nd Leg., p. 380, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.799. Procedure for Holding Election

(a) The ballots for the election shall be printed to provide for voting for or against the proposition:

"Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for construction bond elections.

[Acts 1971, 62nd Leg., p. 380, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.800. Issuance and Sale of Dissolution Bonds

(a) If a majority of the electors at the election vote in favor of the dissolution of the district and the issuance of bonds and the levy of taxes for the payment of the bonds, the board shall issue and sell the bonds or any part of them. The bonds shall be known as "dissolution bonds."

(b) The board may deliver the dissolution bonds or any part of them in satisfaction of the valid, enforceable indebtedness of the district for which the bonds are issued, or in payment of expenses incurred or to be incurred in connection with the dissolution of the district, or in payment of services rendered or to be rendered to the district.

(c) The dissolution bonds shall be:

- (1) serially numbered, commencing with the first maturities;
- (2) issued in the name of the district;
- (3) signed by the president; and
- (4) attested by the secretary, with the seal of the district attached.

(d) The board shall determine the maturities of the bonds not to exceed seven years from their date, the denominations of the bonds, and the interest.

[Acts 1971, 62nd Leg., p. 381, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.801. Destroying Unsold Bonds

If a majority of the electors at the election vote in favor of the dissolution of the district, the board shall destroy all unsold bonds of the district and enter an order cancelling all unissued and unsold bonds authorized by the electors. After the destruction and the entry of the order, the bonds shall have no further force or effect.

[Acts 1971, 62nd Leg., p. 381, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.802. Board's Authority to Contract

The board may contract with trustees, engineers, attorneys, and others it considers necessary or desirable to properly liquidate and wind up the affairs of the district. The board also may assume obligations made by others for the benefit of the district, or from which the district benefited, which in its judgment may be fair and equitable.

[Acts 1971, 62nd Leg., p. 381, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.803. Tax to Pay Dissolution Bonds

The order issuing the dissolution bonds shall provide that the principal of and interest on the bonds shall be payable from the proceeds of a tax to be levied on the taxable property located in the district. The tax shall be in an amount sufficient for the payment of the principal and interest.

[Acts 1971, 62nd Leg., p. 381, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.804. Determining Amount of Tax

(a) The value of all of the taxable property of the district shall be taken at the assessed value as determined in the manner provided by the Property Tax Code, and an amount equal to the total of the principal and all interest to maturity on the bonds voted plus the estimated cost of collection of taxes shall be assessed against the taxable property of the district on the ad valorem basis.

(b) The tax against the taxable property of each owner shall be that portion of the total principal and interest of the dissolution bonds and costs of collection which the assessed value of the taxable property of the owner bears to the total assessed values in the district.

[Acts 1971, 62nd Leg., p. 381, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.805. Payment of Tax

The amount of the tax on the taxable property of each owner shall be payable in equal annual installments during the period in which the bonds mature, on dates specified in the order issuing the bonds.

[Acts 1971, 62nd Leg., p. 382, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.806. Advance Payment of Taxes in Cash

The order issuing the bonds shall provide that a property owner may secure release of the entire amount of his taxable property as assessed on the rolls from the tax levied for the dissolution bonds by the payment in cash of the full amount of tax.

[Acts 1971, 62nd Leg., p. 382, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.807. Computing Amount of Advance Cash Payment

(a) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment of taxes must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid past-due installment of taxes for the number

of years the installment has been past due, and 10 percent of the face amount of each installment that is past due shall be added as a penalty. The total of the items computed shall be added to the unpaid installments.

[Acts 1971, 62nd Leg., p. 382, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.808. Surrender of Bonds in Payment of Taxes

The order issuing the bonds shall provide that any of the bonds with all unmatured interest and all appurtenant coupons may be surrendered at any time in payment of all unpaid installments of the taxes. The amount of taxes found to be due by the method provided in Section 51.809 of this code may be discharged by the surrender of the proper amount of dissolution bonds, together with all unpaid appurtenant interest coupons at the face value of the bonds and coupons.

[Acts 1971, 62nd Leg., p. 382, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.809. Computing Amount of Payment Made by Surrendering Bonds

(a) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied to each unpaid installment of taxes for the number of years the installment has been past due and 10 percent of the face amount of each installment of taxes that is past due shall be added as a penalty. The total of the items computed shall be added to the face amount of each unpaid installment of taxes.

[Acts 1971, 62nd Leg., p. 382, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.810. Use by Trustee of Advance Payments of Tax

The order issuing the bonds shall provide that the bonds shall be called and redeemed by the trustee in the inverse order of their maturity and in the inverse order of their serial numbers. They shall be paid out of any funds received in advance payment of taxes that are not required for meeting any past-due and unpaid principal and interest or the next maturing installment of principal and interest.

[Acts 1971, 62nd Leg., p. 383, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.811. Approval and Registration of Dissolution Bonds

After the dissolution bonds are issued by the board and before they are put in circulation, the

bonds, at the option of the board, shall either be submitted to and approved by the attorney general and registered by the comptroller as provided in Sections 51.416-51.418 of this code or be validated by suit as provided in Sections 51.423-51.431 of this code. The provisions of these sections of this code which are not inconsistent with the provisions of this subchapter are applicable to the dissolution bonds provided for in this subchapter.

[Acts 1971, 62nd Leg., p. 383, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.812. Preparing Tax Roll

Before the issuance and delivery of the bonds, the board shall have the amount of dissolution tax imposed on each property in the district and its orders relating to the time and manner of payment of the tax entered on the current tax roll for the district.

[Acts 1971, 62nd Leg., p. 383, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 51.813 to 51.818. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 51.819. Filing Dissolution Tax Roll

After the preparation of the dissolution tax roll, the board shall file the tax roll with the assessor and collector of the county or counties in which the district is located.

[Acts 1971, 62nd Leg., p. 384, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.820. Collection of Taxes

The assessor and collector shall collect the taxes determined under Section 51.804 of this code on the land located in the county for which he is assessor and collector at the time and in the manner specified by the board in its various orders issuing the dissolution bonds and levying the taxes.

[Acts 1971, 62nd Leg., p. 384, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.821. Appointment of Trustee

(a) Before the issuance and delivery of dissolution bonds, the board shall appoint a trustee of the funds to be collected from the taxes. The trustee shall be an individual or a bank or trust company in the county or one of the counties in which the district is located.

(b) The board may determine the powers, rights, duties, liabilities, and other matters relating to the trusteeship and the appointment of successor trustees which the board considers proper to effectuate the purpose of the trusteeship.

(c) The board may determine the bond to be given by the trustee and the amount to be paid to the trustee from the funds collected from the taxes.

[Acts 1971, 62nd Leg., p. 384, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.822. Authority of the Trustee

The trustee shall receive from the assessor and collector all proceeds from the assessments less the assessor and collector's charges and shall be the paying agent of the district for the bonds. The bonds shall be payable at the place of business of the trustee. The trustee shall be authorized by the order providing for the issuance of the bonds to institute suits in the name of the district for the use and benefit of the holders of the bonds and to apply all sums of money recovered in the suits to the payment of the bonds.

[Acts 1971, 62nd Leg., p. 385, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.823. Tax Lien

After filing the tax roll in the office of the assessor and collector, the taxes, penalties, interest, and attorney's fees shall become a specific charge on and be secured by a lien superior to all other liens, except tax liens, on the personal property, land, and improvements listed on the tax roll regardless of whether the ownership of the personal property, land, and improvements is correctly stated on the tax roll.

[Acts 1971, 62nd Leg., p. 385, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.824. Foreclosure of Lien

The lien may be foreclosed in the manner prescribed in the Property Tax Code in a suit or suits brought in the name of the district by the board, or by the trustee or his successor as provided by the board.

[Acts 1971, 62nd Leg., p. 385, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 51.825. Default in Payment of Tax Installment

(a) Default in the payment of an installment of taxes levied for the payment of dissolution bonds for 60 days after the installment becomes due and payable as provided by the board shall, at the option of the board or the trustee, immediately mature the remaining installments and cause the entire amount of the taxes to immediately become due and payable.

(b) The trustee shall bring suit for the collection of the entire amount of the taxes and for the foreclosure of the lien securing the payment of the taxes.

[Acts 1971, 62nd Leg., p. 385, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.826. Penalty and Attorney's Fee

(a) A penalty of 10 percent of the unpaid amount of taxes shall accrue immediately on default of payment of taxes after the 60 days.

(b) An attorney's fee of 10 percent of the unpaid amount of the taxes is due and payable immediately on institution of suit for collection and foreclosure.

(c) The penalty and attorney's fee shall be recovered in the suit and shall constitute an addition to the taxes and shall be secured by the tax lien.

[Acts 1971, 62nd Leg., p. 385, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.827. Discharge of Lien

(a) On the final payment of the taxes, either the assessor and collector or the trustee shall issue a certificate certifying that the taxes have been fully satisfied and the lien is released.

(b) The execution and acknowledgment of the certificate and the recording of the certificate in the deed records of the county in which the property is located shall be full and conclusive evidence of the discharge of the taxes and lien.

[Acts 1971, 62nd Leg., p. 386, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.828. District Considered Dissolved

(a) On the issuance and sale or delivery of the dissolution bonds and the appointment and qualification of the trustee, the secretary shall deposit all available existing records of the district in the office of the county clerk of the county or one of the counties in which the district is located.

(b) The district immediately is considered dissolved for all purposes, except that the taxes levied against the taxable property may be enforced in the name of the district on behalf of the bondholders by the trustee or his successors. The surviving board may meet from time to time until the dissolution bonds are paid and discharged and may delegate its powers and give instructions to the trustee or his successors as the board sees fit and circumstances warrant. After the payment of all dissolution bonds, interest, and costs of collection, the board shall be dissolved.

[Acts 1971, 62nd Leg., p. 386, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.829. Dissolution of District in Counties of Less Than 11,000 Population

Subject to the provisions of Sections 50.251-50.256 of this code, a district located entirely in a county having a population of less than 11,000, according to the last preceding federal census, may be abolished by a majority vote of the electors residing in the district at an election held for the purpose of determining whether or not the district should be dissolved.

[Acts 1971, 62nd Leg., p. 386, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.830. Petition for Dissolution of District

A petition for the dissolution of the district shall be filed with the board and shall state the name of the district and the purpose for which the election is requested. The petition may refer to the order establishing the district for boundaries, limits, and area of the district.

[Acts 1971, 62nd Leg., p. 386, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.831. Signatures on Petition

A petition for dissolution of the district may be signed and filed in two or more copies. The petition shall be signed by a majority in number of the property owners with land in the district and the property owners of a majority in value of the land in the district, as shown by the tax rolls of the district, or 50 landowners if the number of landowners in the district is more than 50.

[Acts 1971, 62nd Leg., p. 386, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.832. Procedure for Holding Election

(a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E, of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 51.034 of this code. The order shall be filed in the office of the county clerk and recorded in the deed records of the county as provided in Section 51.034 of this code.

[Acts 1971, 62nd Leg., p. 387, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.833. Election in District Including City, Town, or Municipal Corporation

In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved.

[Acts 1971, 62nd Leg., p. 387, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.834. Subsequent Election

If the proposition to dissolve the district fails to carry at the election held for that purpose, no other

election for the same purpose shall be held within one year after the date of the election.

[Acts 1971, 62nd Leg., p. 387, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.835. District Dissolved

If a majority of those voting at the election vote in favor of dissolving the district, the district shall be dissolved and shall have no further authority after the election, except that any debts incurred shall be paid and the organization shall be maintained until all the debts are paid.

[Acts 1971, 62nd Leg., p. 387, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 51.836. Taxes to Pay Indebtedness After Dissolution

If a district has outstanding bonds or other indebtedness maturing beyond the current year in which the dissolution occurs, the commissioners court of the county in which the district is located shall levy and have assessed and collected, in the manner prescribed in the Property Tax Code sufficient taxes on all taxable property in the district to pay the principal of and interest on the bonds and other indebtedness when due.

[Acts 1971, 62nd Leg., p. 387, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

CHAPTER 52. UNDERGROUND WATER CONSERVATION DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 52.001. Definitions

In this chapter:

- (1) "Commission" means the Texas Water Commission.
- (2) "Executive director" means the executive director of the Texas Department of Water Resources.
- (3) "District" means an underground water conservation district created under this chapter.
- (4) "Underground water" means water percolating below the surface of the earth and that is suitable for agricultural, gardening, domestic, or stock raising purposes, but does not include defined subterranean streams or the underflow of rivers.
- (5) "Underground water reservoir" means a specific subsurface waterbearing reservoir having ascertainable boundaries and containing underground water that can be produced from a well at a rate of 150,000 gallons or more a day.
- (6) "Subdivision of an underground water reservoir" means a reasonably definable part of an underground water reservoir in which the underground water supply will not be unreasonably affected by withdrawing water from any part of the reservoir, as indicated by known geological and hydrological conditions and relationships and on foreseeable economic development at the time the subdivision is designated or altered.
- (7) "Waste" means:

(A) withdrawal of underground water from an underground water reservoir at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from an underground water reservoir if the water produced is not used for a beneficial purpose;

(C) escape of underground water from an underground water reservoir to any other reservoir that does not contain underground water;

(D) pollution or harmful alteration of underground water in an underground water reservoir by salt water, other deleterious matter admitted from another stratum or from the surface of the ground; or

(E) wilfully causing, suffering, or permitting underground water to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well.

(8) "Use for a beneficial purpose" means use for:

(A) agricultural, gardening, domestic, stock raising, municipal, mining, manufacturing, industrial, commercial, recreational, or pleasure purposes;

(B) exploring for, producing, handling, or treating oil, gas, sulphur, or other minerals; or

(C) any other purpose that is useful and beneficial to the user.

(9) "Segregated irrigated area" means an irrigated area separated from other irrigated areas by at least five miles of unirrigated land.

(10) "Subsidence" means the lowering in elevation of the land surface caused by withdrawal of groundwater.

[Acts 1971, 62nd Leg., p. 388, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 9, eff. May 31, 1971; Acts 1973, 63rd Leg., p. 1641, ch. 598, § 1, eff. Aug. 27, 1973; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 52.002. Ownership of Underground Water

The ownership and rights of the owner of the land and his lessees and assigns in underground water are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owner or his lessees and assigns of the ownership or rights, subject to the rules promulgated by a district under this chapter.

[Acts 1971, 62nd Leg., p. 389, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.003. Surface Water Laws not Applicable

The laws and administrative rules relating to the use of surface water do not apply to underground water.

[Acts 1971, 62nd Leg., p. 389, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.004. Application of Chapter and District Rules

The provisions of this chapter and the rules adopted by a district under this chapter apply only in the area designated by the commission as an underground water reservoir or a subdivision of an underground water reservoir over which the district is organized.

[Acts 1971, 62nd Leg., p. 389, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 52.005 to 52.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

§ 52.021. Purpose

In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of the underground water of underground water reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water therefrom, consistent with the objective of Article XVI, Section 59, of the Texas Constitution, underground water conservation districts may be created as provided by this chapter.

[Acts 1971, 62nd Leg., p. 389, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1641, ch. 598, § 2, eff. Aug. 27, 1973.]

§ 52.022. Method of Creating District

Except as otherwise provided by this subchapter, the provisions in Chapter 51 of this code for creating water control and improvement districts apply to the creation of underground water conservation districts to the extent that those provisions may be made applicable.

[Acts 1971, 62nd Leg., p. 389, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.023. Boundaries of District

(a) The commission may not consider a petition for the creation of a district unless the proposed boundaries of the district are coterminous with the boundaries of an underground water reservoir or a subdivision of an underground water reservoir, as previously designated by the commission.

(b) Subject to Subsection (a) of this section, a district may include all or part of one or more counties, cities, districts, or other political subdivisions.

[Acts 1971, 62nd Leg., p. 389, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1641, ch. 598, § 4, eff. Aug. 27, 1973.]

§ 52.024. Designation of Reservoirs and Subdivisions

(a) On its own motion from time to time, or on receiving a petition conforming to the requirements of Section 51.013 of this code, the commission, after notice and hearing as provided by Sections 51.018 and 51.027-51.029 of this code, shall designate un-

derground water reservoirs and subdivisions of underground water reservoirs.

(b) On the request of any person interested in the petition, or on the request of the commission, the executive director shall prepare available evidence relating to the existence, area, and characteristics of the reservoir or subdivision. Before making the designation, the commission shall consider the evidence prepared by the executive director and other evidence submitted at the hearing.

(c) The commission may alter the boundaries of designated underground water reservoirs and subdivisions as required by future conditions and as justified by factual data. However, an alteration of boundaries does not invalidate the previous creation of any district.

(d) When the commission has designated the boundaries of a subdivision as provided by this section, its findings on the location of the boundaries, the questions of "reasonableness" and "affect," as referred to in Section 52.001(5) of this code, and all other questions essential to the existence of a subdivision, are conclusive and final unless a suit is brought under Section 52.301 of this code within the 30-day period immediately following the date on which the commission enters its order. [Acts 1971, 62nd Leg., p. 390, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 20, eff. June 10, 1981.]

§ 52.025. Findings

(a) If the commission finds that the district is feasible and practicable, that it would be a benefit to land in the district, and that it would be a public benefit or utility, the commission shall make these findings and grant the petition.

(b) If the commission finds that the district is not feasible and practicable, that it would not be a benefit to land in the district, that it would not be a public benefit or utility, or that it is not needed, the commission shall refuse to grant the petition.

[Acts 1971, 62nd Leg., p. 390, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1641, ch. 598, § 3, eff. Aug. 27, 1973.]

§ 52.026. Segregated Irrigated Area

A district shall include no segregated irrigated area unless a majority of the qualified electors residing in the segregated irrigated area and voting at the election favor inclusion of the area within the district.

[Acts 1971, 62nd Leg., p. 390, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 52.027 to 52.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 52.051. Administrative and Procedural Provisions

Except as otherwise provided by this chapter, the administrative and procedural provisions of Chapter

51 of this code apply to districts created under this chapter.

[Acts 1971, 62nd Leg., p. 391, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.052. Election of Directors: Precinct Method

The directors of the district shall be elected according to the precinct method as prescribed by Chapter 51 of this code. However, if any part of a municipal corporation is a part of one precinct, then no part of the municipal corporation shall be included in another precinct, except that a municipal corporation having a population of more than 200,000 may be divided between two precincts.

[Acts 1971, 62nd Leg., p. 391, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 52.053 to 52.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 52.101. Rule-making Power

A district may make and enforce rules to provide for conserving, preserving, protecting, recharging, controlling subsidence, and preventing waste of the underground water of an underground water reservoir or its subdivisions.

[Acts 1971, 62nd Leg., p. 391, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1641, ch. 598, § 5, eff. Aug. 27, 1973.]

§ 52.102. Rules: Publication, Effective Date

A brief resume of each rule shall be published once a week for two consecutive weeks in one or more newspapers to give circulation within the district. No rule may be made effective until at least 14 days have elapsed after the date of the first publication.

[Acts 1971, 62nd Leg., p. 391, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.103. Enforcement of Rules

The district may enforce its rules by injunction, mandatory injunction, or other appropriate remedy in a court of competent jurisdiction.

[Acts 1971, 62nd Leg., p. 391, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.104. Improvements and Facilities

The district may:

- (1) acquire land to erect dams or to drain lakes, draws, and depressions;
- (2) construct dams;
- (3) drain lakes, depressions, draws, and creeks; and
- (4) install pumps and other equipment necessary to recharge the underground water reservoir or its subdivision.

[Acts 1971, 62nd Leg., p. 391, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.105. Sale and Distribution of Water Prohibited

No district may sell or distribute surface water or underground water for any purpose.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.106. Preferential-Use Provisions Inapplicable

The preferential-use provisions of Section 51.184 of this code are not applicable to underground water conservation districts.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1770, ch. 518, § 13, eff. May 31, 1971.]

§ 52.107. Engineering Surveys

The district may employ registered professional engineers to make surveys of the underground water reservoir or subdivision and surveys of the facilities for development, production, and use of the water, in order to determine the quantity of water available for production and use and to determine the improvements, development, and recharging needed by the reservoir or its subdivision.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.108. Planning

(a) The district may develop comprehensive plans for the most efficient use of the underground water in the underground water reservoir or its subdivision and for controlling and preventing waste of underground water and for controlling and preventing subsidence.

(b) The district shall specify in the plans, in as much detail as practicable, the acts, procedure, performance, and avoidance that are or may be necessary to effect the plans, including specifications.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1642, ch. 598, § 6, eff. Aug. 27, 1973.]

§ 52.109. Research Projects

The district may carry out research projects, develop information, and determine limitations which should be made on withdrawing underground water from the underground water reservoir or its subdivision.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.110. Collection of Information

The district may collect information regarding the use of underground water and the practicability of recharging the reservoir or its subdivision.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.111. Publication of Plans and Information

The district may publish its plans and the information it develops, bring them to the attention of the users of underground water in the district, and encourage the users to adopt and use them.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.112. Records and Reports

The district may require that records be kept and reports be made of the drilling, equipping, and completing of water wells and of the production and use of underground water from the underground water reservoir or its subdivision.

[Acts 1971, 62nd Leg., p. 392, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.113. Drillers' Logs

The district may require that accurate drillers' logs be kept of water wells and that copies of drillers' logs and electric logs be filed with the district.

[Acts 1971, 62nd Leg., p. 393, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.]

§ 52.114. Permits for Wells

The district may require permits for the drilling, equipping, or completing of wells, or for substantially altering the size of wells or well pumps, or for all of these operations. Permits may be issued subject to the rules made under Section 52.117 of this code and subject to terms and provisions with reference to the drilling, equipping, completion, or alteration of wells or pumps that may be necessary to conserve the underground water, prevent waste, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, or lessen interference between wells.

[Acts 1971, 62nd Leg., p. 393, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.115. Permit: Application and Hearing

The district shall promptly consider and pass on each application for a permit. If, within 20 days after the date it is submitted, an application has not been passed on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application. A hearing shall be held within 30 days after the setting of the date and the district shall act on the application within 10 days after the date of the hearing.

[Acts 1971, 62nd Leg., p. 393, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.116. Drilling, Etc., Without Permit

Except as provided by Section 52.118 of this code, no person, firm or corporation may begin to drill a

well in the district, or substantially alter the size of a well or pump, which well could reasonably be expected to produce more than 100,000 gallons of water a day from the reservoir or subdivision, without first obtaining a permit from the district.

[Acts 1971, 62nd Leg., p. 393, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.117. Regulation of Spacing and Production

In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, or to prevent waste, the district may provide for the spacing of water wells and may regulate the production of wells.

[Acts 1971, 62nd Leg., p. 393, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1642, ch. 598, § 7, eff. Aug. 27, 1973.]

§ 52.118. Exceptions; Limitations

(a) The district may not require a permit for the drilling or producing of a well drilled, completed, and equipped so that it will not produce more than 100,000 gallons of underground water a day.

(b) The district shall not deny the owner of a tract of land, or his lessee, who has no well capable of producing more than 100,000 gallons a day on the tract, either a permit to drill a well on his land or the privilege to produce underground water from his land, subject to the rules of the district.

(c) The district may not restrict the production of any well that produces less than 100,000 gallons a day.

(d) Nothing in this chapter applies to wells drilled for oil, gas, sulphur, or brine, or for core tests, or for injection of gas, salt water, or other fluid, or for any other purpose, under permits issued by the Texas Railroad Commission. The district shall not require a permit to drill a well to supply water for drilling any of these wells permitted by the Texas Railroad Commission. When the well ceases to be used for these purposes, it may then be used as an ordinary water well if it meets the spacing and other rules of the district; and its use is subject to the rules of the district.

(e) Water wells exempted under this section shall be equipped and maintained so as to conform to the district's rules requiring installation of casing, pipe, and fittings to prevent the escape of underground water from an underground water reservoir to any reservoir not containing underground water and to prevent the pollution or harmful alteration of the character of the water in any underground water reservoir.

[Acts 1971, 62nd Leg., p. 393, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.119. Open or Uncovered Wells

(a) The district may require the owner or lessee of land on which an open or uncovered well is

located to keep the well permanently closed or capped with a covering capable of sustaining weight of at least 400 pounds, except when the well is in actual use.

(b) As used in this section, "open or uncovered well" means an artificial excavation at least 10 feet deep and at least 10 inches but not more than six feet in diameter, that is dug or drilled for the purpose of producing water from the underground water reservoir and is not capped or covered as required by this chapter.

(c) If the owner or lessee fails or refuses to close or cap the well in compliance with this chapter within 10 days after being requested to do so in writing by an officer, agent, or employee of the district, any person, firm, or corporation employed by the district may go on the land and close or cap the well safely and securely.

(d) Expenses incurred by the district in closing or capping a well, not to exceed \$100, constitute a lien on the land on which the well is located.

(e) The lien is perfected by filing in the deed records of the county where the well is located an affidavit, executed by any person conversant with the facts, stating the following:

- (1) the existence of the well;
- (2) the legal description of the property on which the well is located;
- (3) the approximate location of the well on the property;
- (4) the failure or refusal of the owner or lessee, after notification, to close the well within 10 days after the notification;
- (5) the closing of the well by the district, or by an authorized agent, representative, or employee of the district; and
- (6) the expense incurred by the district in closing the well.

(f) The district may make and enforce rules that are necessary or appropriate to effectively exercise the powers granted in this section.

(g) Nothing in this section affects the enforcement of Chapter 281, Acts of the 51st Legislature, 1949 (Article 1721, Vernon's Texas Penal Code).

[Acts 1971, 62nd Leg., p. 394, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.120. Illegal Drilling and Operation of Well; Suit

(a) Drilling a well without a required permit or operating a well at a higher rate of production than the rate approved for the well is declared to be illegal, wasteful per se, and a nuisance.

(b) A person who has an estate in land which is adjacent to the land on which the well is located, or a part which lies within one-half mile of the well, may sue in a court of competent jurisdiction to restrain or enjoin the illegal drilling or operation, or

both. The suit may be brought with or without the joinder of the district.

(c) The aggrieved party may also sue for damages for injuries he may have suffered by reason of the illegal operation and for other relief to which he may be entitled. In a suit for damages, the existence or operation of a well in violation of the rules of the district is prima facie evidence of illegal drainage.

(d) The suit may be brought in the county where the illegal well is located or in the county where all or part of the affected land is located.

(e) The remedies provided by this section are cumulative of other remedies available to the individual or the district.

(f) A suit brought under this section shall be advanced for trial and determined as expeditiously as possible. The court shall not grant a postponement or continuance, including a first motion, except for reasons considered imperative by the court. [Acts 1971, 62nd Leg., p. 395, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 52.121 to 52.200 reserved for expansion]

SUBCHAPTER E. TAX AND BOND PROVISIONS

§ 52.201. Limit on Taxing Power

The district may not levy or collect taxes on property in the district at a rate greater than 50 cents on the \$100 assessed valuation.

[Acts 1971, 62nd Leg., p. 395, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.202. Bonds: Approval of Commission not Required

A district proposing to issue bonds is not required to submit its plans to and secure approval of the commission under Sections 51.421-51.422 of this code.

[Acts 1971, 62nd Leg., p. 396, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 52.203 to 52.300 reserved for expansion]

SUBCHAPTER F. JUDICIAL REVIEW

§ 52.301. Suit Against District or Commission

(a) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or with any rule or order made by a district under this chapter is entitled to file a suit against the district or its directors to challenge the validity of the law, rule, or order. The suit shall be filed in a court of competent jurisdiction in any county in which the district or any part of the district is located.

(b) A person, firm, corporation, or association of persons affected by and dissatisfied with any provision of this chapter or by an act of the commission

is entitled to file suit against the commission to challenge the validity of the law or the act of the commission. The suit shall be filed in a court of competent jurisdiction in Travis County.

[Acts 1971, 62nd Leg., p. 396, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.302. Suit to be Expedited

A suit brought under this subchapter shall be advanced for trial and determined as expeditiously as possible. No postponement or continuance shall be granted except for reasons considered imperative by the court.

[Acts 1971, 62nd Leg., p. 396, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.303. Trial of Suit

The burden of proof is on the petitioner, and the challenged law, rule, order, or act shall be deemed prima facie valid; but the trial shall be de novo, and the court shall determine all issues of law and fact independent of any determination by the district or the commission.

[Acts 1971, 62nd Leg., p. 396, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 52.304. Subchapter Cumulative

The provisions of this subchapter do not affect other legal or equitable remedies that may be available.

[Acts 1971, 62nd Leg., p. 396, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 52.305 to 52.400 reserved for expansion]

SUBCHAPTER G. DISSOLUTION OF DISTRICT

§ 52.401. Dissolution

(a) A district may be dissolved in the manner provided by Sections 51.781-51.792 of this code.

(b) A district composed of territory entirely within one county may be dissolved even if it has outstanding indebtedness that matures after the year in which the district is dissolved. In this case, the commissioners court shall levy and collect taxes on all taxable property in the district in an amount sufficient to pay the principal of and interest on the indebtedness when due. The taxes shall be levied and collected in the same manner as county taxes.

(c) This section does not apply to any district composed of territory in more than one county.

[Acts 1971, 62nd Leg., p. 396, ch. 58, § 1, eff. Aug. 30, 1971.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 53.001. Definitions

In this chapter:

- (1) "District" means a fresh water supply district established under this chapter.
- (2) "Board" means the board of supervisors of a district.

(3) "Improvement" means a facility for conserving, transporting, or distributing fresh water. [Acts 1971, 62nd Leg., p. 397, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 53.002 to 53.010 reserved for expansion]

SUBCHAPTER B. CREATING AND DIVIDING A DISTRICT

§ 53.011. Creating a District

A district is created by petition, hearing, and election. [Acts 1971, 62nd Leg., p. 397, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.012. Cities and Towns

Cities and towns are includable in a district. [Acts 1971, 62nd Leg., p. 397, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.013. Presenting Petition

A person may present a petition requesting creation of a district to the commissioners court of the county which includes the land in the proposed district. If the commissioners court is not in session, the petition may be presented to the county judge. [Acts 1971, 62nd Leg., p. 397, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.014. Requisites of Petition

To be sufficient, the petition must:

- (1) contain the signatures of 50 or a majority of the electors of the proposed district who own land in the proposed district; and
- (2) state:
 - (A) the boundaries of the proposed district;
 - (B) the general nature of the projects proposed to be done;
 - (C) the necessity for the proposed district;
 - (D) the feasibility of the proposed district; and
 - (E) the proposed name for the district, which must include the name of the county in which it is situated.

[Acts 1971, 62nd Leg., p. 397, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.015. Deposit

The person who presents the petition shall at the same time pay a deposit of \$100 to the county clerk. The clerk shall pay out the deposit on vouchers approved by the county judge for all expenses necessary for the hearing and the election for the creation of the district. After the election, the clerk shall return any portion of the deposit which is left to the petitioners or their attorney.

[Acts 1971, 62nd Leg., p. 397, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.016. Time and Place of Hearing

The commissioners court or county judge shall immediately set a time and place for a hearing on the petition by the commissioners court. The hearing must be held during the period beginning on the 15th day and ending with the 30th day after the day the petition is presented.

[Acts 1971, 62nd Leg., p. 398, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.017. Notice

(a) The county clerk shall issue notice of the time and place of the hearing, and in the notice he shall include a statement that any person is entitled to appear at the hearing, challenge the form and allegations of the petition, and contest the proposition that the projects to be undertaken by the proposed district would benefit the land inside its boundaries.

(b) The county clerk may deliver the notice to any adult who is willing to execute it as directed by Section 53.018 of this code.

[Acts 1971, 62nd Leg., p. 398, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.018. Posting Notice

(a) The person receiving the notice shall post a copy of it at the courthouse door and a copy at each of four different places inside the proposed district. He shall post the notice for at least the 10 days that immediately precede the day set for the hearing.

(b) The person posting the notice shall swear in writing, before some officer who is authorized by law to administer oaths, that he posted the notice according to the provisions of Subsection (a) of this section. The sworn written statement is conclusive of the facts sworn to.

[Acts 1971, 62nd Leg., p. 398, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.019. Hearing Powers

(a) The commissioners court shall have jurisdiction to determine all issues pertaining to the sufficiency of the petition and shall allow any interested person to appear before it in person or by attorney to offer testimony relative to the sufficiency of the petition.

(b) The commissioners court may adjourn the hearing from day to day as is necessary to complete the hearing.

(c) The commissioners court may make all orders necessary to determine the matters before it.

[Acts 1971, 62nd Leg., p. 398, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.020. Findings; Ordering Election

(a) The commissioners court shall order an election to determine whether or not the proposed district shall be created, if, at the hearing of the petition, the commissioners court finds:

(1) that the petition conforms to the requirements of Section 53.014 of this code;

(2) that the projects to be undertaken by the proposed district are feasible, practical, and necessary; and

(3) that the projects would benefit the land inside the proposed district.

(b) The commissioners court by order shall set the day for the election, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the order is made.

[Acts 1971, 62nd Leg., p. 398, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.021. Officers to be Elected

In the election, five supervisors and the tax assessor and collector are elected.

[Acts 1971, 62nd Leg., p. 399, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.022. Notice of Election

(a) The commissioners court shall prepare a notice of the election, stating:

(1) the time and places of holding the election;

(2) the boundaries of the proposed district;

(3) the proposition to be voted on;

(4) the officers to be voted for; and

(5) the presiding officers appointed to hold the election.

(b) The county clerk shall post the notice at the courthouse door for at least the 20 days immediately preceding the day of the election.

[Acts 1971, 62nd Leg., p. 399, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.023. Conduct of Election

The commissioners court shall select and name the polling places for each election. Each district is an election precinct for an election held under this chapter. The commissioners court shall appoint a presiding judge, one other judge, and two clerks for each polling place.

[Acts 1971, 62nd Leg., p. 399, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.024. Ballot for Election

The commissioners court shall provide the ballots for the election, and on each ballot the commissioners court shall have only the following information printed:

(1) the proposition relating to creation of the district;

(2) the names of the persons who were recommended as supervisors and as tax assessor and collector in the petition;

(3) five blank lines under an appropriate heading for write-in votes for the office of supervisor; and

(4) one blank line under an appropriate heading for a write-in vote for the office of tax assessor and collector.

[Acts 1971, 62nd Leg., p. 399, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.025. Returns; Canvass

Immediately after the election, the presiding judges shall make out and deliver the returns in the same manner that returns are made out and delivered in general elections. The commissioners court, at a regular or called session, shall immediately canvass the returns and declare the result.

[Acts 1971, 62nd Leg., p. 399, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.026. Declaration of Result

(a) If the result of the election is in favor of creating the district, then the commissioners court shall make and enter in its minutes an order substantially in this form: "_____ and _____ others having petitioned for the creation of _____ County Fresh Water Supply District No. _____; an election having been held in the proposed district on _____; and a majority of the votes cast in the election having favored creation of the district; now, therefore, the court declares that _____ County Fresh Water Supply District No. _____ is created, with the following metes and bounds: (Field notes)."

(b) The first district created in a county is "No. 1," the second district is "No. 2," and so on consecutively.

[Acts 1971, 62nd Leg., p. 399, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.027. Recordation of Order

After entering the order creating the district, the commissioners court shall make a certified copy of the order. The commissioners court shall file this copy with the county clerk. The county clerk shall record the certified copy in the deed records of the county. Recording the order gives notice of its contents to the same extent that recording a deed gives notice of its contents. The district shall pay all costs of making and recording the copy.

[Acts 1971, 62nd Leg., p. 400, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.028. Certificates of Election

The commissioners court shall issue certificates of election to the five persons receiving the most votes for supervisor and to the person receiving the most votes for tax assessor and collector. If two or more persons receive the same number of votes for the position of fifth supervisor, the commissioners court shall select one of them to be the fifth supervisor.

[Acts 1971, 62nd Leg., p. 400, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.029. Division of Certain Districts

A district located in a county having a population of 900,000 or more, according to the last preceding federal census, may be divided into two new districts if it has no outstanding bonded debt and is not levying ad valorem taxes. The division procedure is prescribed by Sections 53.030 to 53.041 of this code.

[Acts 1971, 62nd Leg., p. 400, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 598, ch. 237, § 139, eff. Sept. 1, 1981.]

§ 53.030. Ordering Election -

The board may order a special election on its own motion or on presentation of a petition signed by 20 or more qualified property taxpaying electors of the district.

[Acts 1971, 62nd Leg., p. 400, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.031. Order: Metes and Bounds

The petition for election and the order and notices of election must set forth the metes and bounds of the two proposed new districts.

[Acts 1971, 62nd Leg., p. 400, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.032. Order: Time of Election

In the order the board shall set the time for the election, which must be held before the expiration of the 30th day after the day the order is made.

[Acts 1971, 62nd Leg., p. 400, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.033. Order: Election of Supervisors

The board shall include in the order a statement that if the election results in division of the district, the two new districts will each be governed by a board of five supervisors elected in the same election.

[Acts 1971, 62nd Leg., p. 401, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.034. Order: Division of Property and Money

In the election order the board shall state in a general way how the properties and any money on hand will be divided between the two new districts if the election is in favor of dividing into two districts. The basis set by the board is controlling.

[Acts 1971, 62nd Leg., p. 401, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.035. Notice of Election

The board shall give notice of the election by:

- (1) posting copies of the election order at each of three public places inside the district for at least the 10 days immediately preceding the date of the election; or

(2) publishing the order in a newspaper of general circulation in the county in which the district is located; or

(3) both posting and publishing the order.

[Acts 1971, 62nd Leg., p. 401, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.036. Candidates for Supervisor

(a) To be qualified for election as a supervisor of one of the proposed new districts, a person must:

(1) be a resident of the territory to be included in the new district;

(2) have been a resident of the county for six months and the state for one year immediately preceding the day of the election; and

(3) have the qualifications prescribed by Section 53.063 of this code for supervisors.

(b) A qualified person may have his name printed on the ballot as a candidate for supervisor of a proposed new district by filing a written application with the secretary of the board of supervisors of the existing district at least 10 days before the day of the election.

[Acts 1971, 62nd Leg., p. 401, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.037. Ballots and Election Supplies

The board shall furnish the ballots and election supplies necessary to hold the election. The board shall pay for the ballots, election supplies, and other expenses of the election from district funds.

[Acts 1971, 62nd Leg., p. 401, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.038. Conduct of Election

The board shall appoint a presiding judge and two or more clerks to assist him in holding the election. The election is governed by the general election laws except as otherwise provided in this chapter.

[Acts 1971, 62nd Leg., p. 401, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.039. Canvassing Returns

Immediately after the election is held, the presiding judge shall make out and deliver the returns to the board, and the board shall then canvass the returns and declare the result.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.040. Elected Supervisors Take Office

If the election results in a division of the district, the five candidates receiving the most votes in each new district shall be declared elected. They shall immediately qualify by taking the constitutional oath of office and shall file the oath with the county clerk.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.041. Completing Membership of the Board

If no supervisors are elected, or if a full board is not elected, the commissioners court shall appoint the needed members of the board.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.042. Newly Elected Supervisors—Term of Office

The newly elected supervisors hold office until the new district's first general election and then until their successors are elected and have qualified.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.043. Powers of New District

A district created by the division of an existing district into two districts has all the powers and duties given by this chapter to any other district.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 53.044 to 53.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 53.061. Creation of District

A commissioners court may create one or more fresh water supply districts in its county by following the procedure prescribed in Sections 53.011–53.029 of this code.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.062. Board of Supervisors

A district created under this chapter is governed by a board of five elected supervisors. Specific provisions for the election of supervisors are found in Section 53.021, Section 53.086, and Section 53.0861 of this code.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2665, ch. 720, § 2, eff. Aug. 31, 1981.]

§ 53.063. Supervisor's Qualifications

To be qualified for election as a supervisor, a person must be:

- (1) a resident of the district;
- (2) an owner of land in the district; and
- (3) 21 years old or older at the time of his election.

[Acts 1971, 62nd Leg., p. 402, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.0631. Disqualification of Members of the Board

(a) A person is disqualified from serving as a member of the board if:

(1) he is related within the third degree of affinity or consanguinity to a developer of property in the district or to a member of the board or the manager, engineer, or attorney for the district;

(2) he is an employee of any developer of property in the district or any other director, or the manager, engineer, or attorney for the district;

(3) he is a developer of property in the district;

(4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a developer of property in the district in connection with the district or property located in the district; or

(5) he is:

(A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as a supervisor and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Acts 1973, 63rd Leg., p. 1750, ch. 635, § 3, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 602, ch. 248, § 3, eff. May 20, 1975.]

§ 53.064. Terms of Office and Succession

(a) The two first elected supervisors who receive the fewest number of votes at the creation election hold office until the first general election of officers following their election and the three first elected supervisors who receive the highest number of votes at the creation election hold office until the second general election of officers following their election. Their successors hold office for a term of four years.

(b) The provisions of Section 55.113 of this code govern the filling of a vacancy on the board of supervisors.

[Acts 1971, 62nd Leg., p. 403, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2665, ch. 720, § 1, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 5212, ch. 951, § 4, eff. Jan. 1, 1984.]

Section 4 of the 1981 amendatory act provides:

"(a) Of the supervisors who are in office on the effective date of this Act, the two supervisors who received the fewest votes at the last district general election hold office until the first general election of officers of the district following the effective date of this Act, and the three supervisors who received the highest number of votes at the last district general election hold office until the second general election of officers of the district following the effective date of this Act. Successors to these directors serve for two-year terms.

"(b) If a supervisor holding office on the effective date of this Act was appointed to fill a vacancy and was not elected at the last general election, he is considered as being among those who received the fewest votes at the last general election.

"(c) In the case of a tie in number of votes at the last general election, the affected persons shall determine their priority under Subsection (a) by lot."

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 53.065. Board Officers and Meetings

(a) After each biennial election, the board shall organize by electing one of its members president.

(b) The board may appoint a secretary and may pay him a salary of \$150 a month or less.

(c) Three supervisors constitute a quorum, and a concurrence of three is necessary, for transacting any of the business of the district.

(d) The board shall have an office in the district and shall hold meetings at the office at 10 a. m. on the first Monday in February, May, August, and November of each year. The board shall also hold special meetings at the office.

(e) A taxpayer, resident, or interested person may attend any meeting of the board. No person may participate in a meeting without the consent of the board. If given permission by the board, a person may present in an orderly manner any matter at the meeting.

[Acts 1971, 62nd Leg., p. 403, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.066. Board Records

(a) The board shall keep an accurate record of all its meetings and proceedings.

(b) The board shall keep contracts, records of notices, duplicate vouchers, duplicate receipts, and all other accounts and records in a fireproof vault or safe. It shall deliver the records, which are the property of the district, to its successors in office.

[Acts 1971, 62nd Leg., p. 403, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.067. Supervisor's Bond

Within 10 days after the commissioners court enters the order creating the district each supervisor shall execute a good and sufficient bond for \$5,000, payable to the district and approved by the commissioners court, conditioned on the faithful performance of his duties.

[Acts 1971, 62nd Leg., p. 403, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.068. Supervisor's Oath

Each supervisor shall take the oath of office provided by statute for county commissioners. A supervisor, when taking the oath, shall substitute the name of the district for the name of the county.

[Acts 1971, 62nd Leg., p. 403, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.069. Recording the Oath and Bond

(a) The commissioners court shall file each supervisor's bond and oath with the county clerk. The county clerk shall record the bond and the oath in the official bond records of the county.

(b) The county clerk shall deliver bonds filed with him to the district depository. The district depository shall keep the bonds as district records.

[Acts 1971, 62nd Leg., p. 403, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.070. Supervisor's Compensation

(a) A supervisor is entitled to receive for his services not more than \$50 for each day he actually engages in the work of the district.

(b) Before a supervisor may receive compensation for his services, he must submit a statement of his services similar to the one required by Section 55-111(b) of this code.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 942, ch. 154, § 2, eff. Aug. 30, 1971; Acts 1983, 68th Leg., p. 643, ch. 144, § 2, eff. May 17, 1983.]

§ 53.071. District Assessor and Collector

One person shall serve as both assessor and tax collector for the district. The tax assessor and

collector is elected. The first assessor and collector is elected at the election to create the district.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.072. Assessor and Collector's Qualifications

To be qualified for election as assessor and collector, a person must be a resident of the district and a qualified voter in the district.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.0721. Disqualification of Assessor and Collector

(a) No person may serve as assessor and collector of a district if:

(1) he is related within the third degree of affinity or consanguinity to any developer in the district, a member of the board or the manager, engineer, or attorney for the district;

(2) he is or was within two years immediately preceding the assumption of his assessment and collection duties with the district an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) he owns an interest in or is employed by any corporation organized for the purpose of tax assessment and collection services, a substantial portion of the stock of which is owned by a developer of property within the district, any director, manager, engineer, or attorney for the district; or

(4) he is himself or through a corporation developing land in the district, or is a director, engineer or attorney for the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as tax assessor and collector with a person who would not be disqualified.

(c) Any person who wilfully violates the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

[Acts 1973, 63rd Leg., p. 1537, ch. 558, § 3, eff. June 15, 1973.]

§ 53.073. Assessor and Collector's Term of Office

The first elected assessor and collector holds office until the next general election of officers following his election. The succeeding assessor and collectors hold office for terms of two years. The board shall fill any vacancy in the office of assessor and collector by appointment for the unexpired term.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.074. Repealed by acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 53.075. Assessor and Collector's Salary

The board shall fix the salary of the assessor and collector at \$2,400 a year or less.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.076. District Engineer

The board may employ an engineer.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.077. Engineer's Compensation

The board shall fix the salary of the engineer at \$3,600 a year or less.

[Acts 1971, 62nd Leg., p. 404, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 53.078 to 53.083. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 53.084. Required Official Bonds

A bond required of an officer or employee of the district is governed by the provisions of Section 55.123 of this code, which governs the approval and furnishing of bonds by surety companies for officers and employees of water improvement districts.

[Acts 1971, 62nd Leg., p. 405, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.085. Compensation of Other Officers

(a) If the compensation of an officer of a district is not provided for in this chapter, the district shall pay him the same compensation that he would receive for doing similar service as an officer of the county.

(b) The district shall pay a clerk who records orders the same compensation that a county clerk is paid for recording deeds. The district shall pay a

person who posts notices the same compensation that a sheriff is paid for officially posting notices.

[Acts 1971, 62nd Leg., p. 405, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.086. Date for General Elections

(a) The district shall hold a general election in each even-numbered year to elect the appropriate number of supervisors. The District shall hold the election on the first Saturday in April.

(b) The assessor and collector shall be elected at the district's general election.

[Acts 1971, 62nd Leg., p. 405, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1540, ch. 559, § 3, eff. June 15, 1973; Acts 1981, 67th Leg., p. 2665, ch. 720, § 2, eff. Aug. 31, 1981; Acts 1983, 68th Leg., p. 5213, ch. 951, § 5, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 53.0861. Election of Supervisors by Positions

The supervisors may adopt an order assigning position numbers to each supervisor's office, and after adoption of the order, supervisors will be elected by position.

[Acts 1981, 67th Leg., p. 2665, ch. 720, § 3, eff. Aug. 31, 1981.]

§ 53.087. District Seal

The district shall have a common seal which is circular in form with the name of the district surrounding a five-pointed star.

[Acts 1971, 62nd Leg., p. 406, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.088. Status of the District

(a) A district is:

- (1) a governmental agency;
- (2) a body politic and corporate; and
- (3) a defined district within the meaning of Article XVI, Section 59, of the Texas Constitution.

(b) A district may, through its board, sue and be sued in any court of this state in the name of the district. All courts of this state shall take judicial notice of the creation of a district. A district shall contract and be contracted with in the name of the district.

[Acts 1971, 62nd Leg., p. 406, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.089. Filling Offices Vacant Due to Lack of Candidates

(a) After a district has issued any bonds, if there are not enough qualified persons to fill all the offices of the district, an owner of any of the bonds may file a petition with the county clerk of any county in which the district is located to have the commissioners court appoint a board of supervisors

and a secretary for the board for the district. The person who files the petition shall address the petition to the commissioners court and set forth the facts as to the insufficiency of the number of qualified persons.

(b) When the petition is filed, the county judge shall by order set a date for a hearing on the merits of the petition and the commissioners court shall hold the hearing during the period beginning on the 30th day and ending with the 60th day after the day the petition is filed. The commissioners court shall give notice of the hearing, setting forth the time and place of the hearing and a brief description of the purpose of the hearing. The commissioners court shall have the notices posted in four places in the district and at the courthouse door. The commissioners court shall have the notices posted for at least the 20 days immediately preceding the day of the hearing. The commissioners court shall hold the hearing in the courtroom of the commissioners court. The commissioners court has exclusive original jurisdiction to hear and determine the matters and facts involved in the hearing. A district court of the county may review the findings and judgment of the commissioners court.

(c) If there is no governing body or board of supervisors of a district, this fact is prima facie proof that there are not enough qualified persons who are residents and property owners in the district to fill all the offices of the district. In this case, the petitioning bond owners are entitled to the relief given by this section.

(d) If the commissioners court finds that the allegations in the petition are true and sufficient, the commissioners court shall enter its judgment and decree and appoint three disinterested commissioners to be the board of supervisors and the board of equalization of the district.

(e) An appointed commissioner must be a landowner of the county in which the district is located. He may or may not own land inside the district for which he is to act. No appointed commissioner may be related within the fourth degree of affinity or consanguinity to a member of the commissioners court that appoints him.

(f) A commissioner who is appointed by the commissioners court shall be 21 years old or older. The appointed board and its secretary have the same powers and duties and are entitled to receive the same compensation as a regularly appointed board and its secretary.

(g) If the commissioners court appoints commissioners as provided in Subsection (d) of this section, the tax assessor and collector of the county in which the district is located shall be ex officio tax assessor and collector of the district. If the positions of tax assessor and tax collector for the county are filled by two different persons, these persons shall fill the same positions, respectively, for the district. The county assessor and collector is entitled to receive

the same compensation for his services as does a regularly elected district assessor and collector.

(h) The commissioners court that grants the relief provided for in this section shall levy taxes on all taxable property inside the district in an amount sufficient to pay the interest on the bonds as it accrues and the principal as it matures. The tax assessor and collector shall assess and collect these taxes.

[Acts 1971, 62nd Leg., p. 406, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.090. District Office

(a) After at least 25 qualified electors are residing in the district, the district shall have a district office located in the district, and on majority vote of the board at a public hearing may maintain an office outside the district.

(b) After at least 25 qualified electors are residing in a district, on written request of at least five of these electors, the board shall designate a meeting place within the district. On the failure to designate the location of the meeting place within the district, five electors may petition the Texas Water Commission to designate a location, which may be changed by the board after the next election of members to the board.

[Acts 1973, 63rd Leg., p. 618, ch. 263, § 3, eff. Aug. 27, 1973. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 21, eff. June 10, 1981.]

§ 53.091. Records

The district shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds or certified copies of these in a safe place in the district office. These minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection.

[Acts 1973, 63rd Leg., p. 618, ch. 263, § 3, eff. Aug. 27, 1973.]

[Sections 53.092 to 53.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 53.101. Purpose of District

Fresh water supply districts may be created to conserve, transport, and distribute fresh water from any sources for domestic and commercial purposes.

[Acts 1971, 62nd Leg., p. 407, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.102. Constitutional Basis

The constitutional basis for this chapter is Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 407, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.103. **Governmental Powers of District**

A district has the powers of government and authority to exercise the rights, privileges, and functions given to it by this chapter or by any other state law.

[Acts 1971, 62nd Leg., p. 407, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.104. **Authority to Acquire Water Rights**

A district may acquire water rights and privileges in any way that an individual or corporation may acquire them. A district may hold water rights and privileges, either by gift, purchase, devise, appropriation, or by other means.

[Acts 1971, 62nd Leg., p. 407, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.105. **Duties—In General**

The board shall control and manage the affairs of the district, including:

- (1) making all contracts for the district;
- (2) controlling the construction of all improvements and other works inside and outside the district; and
- (3) controlling the transportation and distribution of the water of the district.

[Acts 1971, 62nd Leg., p. 408, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.106. **Employees**

The board may employ all necessary employees for the district, including:

- (1) a general manager;
- (2) attorneys;
- (3) a bookkeeper;
- (4) an engineer; and
- (5) assistants and laborers.

[Acts 1971, 62nd Leg., p. 408, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.107. **Distribution of Water and Use of Revenues Obtained from Distribution of Water**

(a) The board shall:

- (1) prescribe the terms on which water will be furnished;
- (2) fix the rate to be paid by users of water from the district; and
- (3) make rules and regulations governing the distribution and use of water.

(b) The board shall apply any revenue obtained from the sale of water to operation and maintenance expenses. Any revenue left after paying these expenses shall be used to pay interest on bonds and other indebtedness incurred by the district with the remainder to be placed in the sinking fund.

[Acts 1971, 62nd Leg., p. 408, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.108. **Right to Enter Land**

The supervisors and employees of a district may go on any land inside or outside the district to examine the land with reference to:

- (1) the location of improvements to be constructed by the district; and
- (2) any other lawful purpose in regard to conserving, transporting, and distributing water.

[Acts 1971, 62nd Leg., p. 408, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.109. **Power of Eminent Domain**

(a) The district may exercise the power of eminent domain to acquire the fee simple title, easement, or right-of-way over and through any public or private land, water, or land under water, inside or outside the district, necessary to construct and operate the improvements authorized by this chapter and to connect with pipelines belonging to other districts.

(b) The district may not exercise the power of eminent domain to take a right-of-way over or through:

- (1) a park;
- (2) a cemetery;
- (3) a manufacturing establishment; or
- (4) an established and developed waterpower existing at the time the district is created.

(c) The district shall pay fair and just compensation to the owners of pipelines in other districts to which the district connects its improvements. The district may connect its improvements with those of other districts only when the use will not impair the supply or service of the other districts.

(d) The board shall institute eminent domain proceedings in the name of the district.

[Acts 1971, 62nd Leg., p. 408, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.110. **Acquisition of Right-of-Way**

(a) The district may acquire the rights-of-way for necessary improvements by gift, grant, purchase, or condemnation proceedings.

(b) The district may construct and maintain improvements inside and outside the district on the land it acquires.

[Acts 1971, 62nd Leg., p. 409, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.111. **Right-of-Way across Roads**

A district has the right-of-way across any public or county road. The district shall restore the roads where crossed as nearly as is possible to their previous condition.

[Acts 1971, 62nd Leg., p. 409, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.112. Use of Roadways

In order to secure fresh water, a district may construct necessary levees, bridges, and other improvements across or under:

- (1) railroad embankments, tracks, or rights-of-way;
- (2) public or private roads and their rights-of-way;
- (3) rivers;
- (4) improvements of other districts and their rights-of-way; and
- (5) other improvements and their rights-of-way.

[Acts 1971, 62nd Leg., p. 409, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.113. Constructing Improvements on Railroad Ways

(a) Before the district may construct an improvement across or under any railroad property, the district must notify the railroad authorities of the district's intention to construct the improvement if the railroad does not do so.

(b) The railroad has 30 days from the day it receives the notice in which to decide whether or not to build the improvement itself, at its own expense and according to its own plans.

(c) If the railroad builds the improvement, it must do so in a manner which is satisfactory to the district.

[Acts 1971, 62nd Leg., p. 409, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.114. Power to Construct Improvements

(a) A district may build and maintain necessary works and improvements inside and outside the district.

(b) A district may make any contracts necessary to build and maintain works and improvements. A district may employ any persons and means necessary to build and maintain works and improvements.

(c) With the consent of the proper governing bodies, a district may, if necessary, take over, by purchase or otherwise, all or part of any water plants or systems inside the district.

[Acts 1971, 62nd Leg., p. 409, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.115. Duties of Engineer

(a) The engineer shall make maps and profiles of the district improvements, including any part of the improvements which extends beyond the boundaries of the district.

(b) The engineer may adopt other correct maps, plats, and surveys.

(c) The engineer shall perform other duties required of him by the board.

[Acts 1971, 62nd Leg., p. 409, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.116. Construction Contracts

(a) A district may enter into necessary contracts for authorized construction and repairs.

(b) Before awarding a contract of \$1,000 or more, the board shall ask for competitive bids on uniform written specifications, after advertising one time in a newspaper of general circulation in the county or district for at least five days before opening bids.

(c) The board shall award each contract to the lowest and best bidder.

(d) The board shall require each contractor to execute a surety bond in a sum equal to the amount of the contract, to insure the faithful performance of the contract and payment for labor and materials.

(e) The bond shall be approved by the board and deposited with the depository, and a true copy of the bond shall be retained in the office of the district secretary.

(f) When the amount is \$1,000 or less, but more than \$150, the board may receive bids and award contracts without advertising or requiring bond.

(g) When the amount is \$150 or less, the board may purchase on emergency requisitions. All of the provisions of Articles 1667 through 1673, Revised Civil Statutes of Texas, 1925, as amended, apply to the accounting of the district and the record of purchases, except as otherwise provided in this section.

[Acts 1971, 62nd Leg., p. 410, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.117. Formal Requirements of a District Contract

To be effective, a contract made by the board must be in writing and signed by the contractor and at least three supervisors. The board shall file a copy of each contract with the depository, where it may be inspected by any interested person.

[Acts 1971, 62nd Leg., p. 410, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.118. Performance of Contract

The contractor shall fulfill the contract in accordance with the specifications and under the supervision of the board and the district engineer. The engineer shall inspect the work and report on the progress of the work.

[Acts 1971, 62nd Leg., p. 410, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.119. Payment of Contracts

The board shall pay for the work in the manner provided for by law for contracts executed by water control and preservation districts.

[Acts 1971, 62nd Leg., p. 410, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.120. Power to Purchase Equipment

The board may buy necessary equipment and supplies that are required to construct, operate, and maintain the works and improvements of the district.

[Acts 1971, 62nd Leg., p. 410, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.121. Constructing Sanitary Sewer Systems

(a) A district may purchase, construct, acquire, own, operate, repair, improve, and extend sanitary sewer systems to control wastes, if no other public sanitary sewer system is available for the area inside the fresh water supply district.

(b) Before a district may exercise the power given by this section, it must hold an election in the same manner as provided in this chapter for other elections of the district.

[Acts 1971, 62nd Leg., p. 411, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.122. Regulating Sanitary Conditions Inside the District

(a) A district may regulate the installation, maintenance, and operation of plumbing fixtures and facilities inside the district for the purpose of:

- (1) maintaining safe and sanitary conditions; and
- (2) protecting the lives, health, and welfare of the people in the district.

(b) The board may set a reasonable penalty for violating any rule authorized by Subsection (a) of this section, within these limits:

- (1) a fine of not more than \$200;
- (2) confinement in the county jail for not more than 30 days; or
- (3) both the fine and the jail sentence.

(c) The penalty set by the supervisors is in addition to other penalties provided by law. A court of proper jurisdiction in the county where the district's principal office is located may enforce the penalties.

(d) A penalty for the violation of a rule is not valid unless a brief, substantial statement of the rule and the penalty is published once a week for two consecutive weeks in a newspaper of general circulation in the area in which the district is located. A penalty takes effect seven days after the second publication.

(e) The courts shall take judicial notice of the rules made by a district under this section.

[Acts 1971, 62nd Leg., p. 411, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.123. Interest in District Contract

(a) No supervisor, engineer, or employee of the district may have a direct or indirect interest in any contract for:

- (1) the purchase of material needed by the district; or
- (2) the construction of improvements by the district.

(b) A person who violates any provision of Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by:

- (1) a fine of not more than \$1,000 or confinement in the county jail for not less than six months nor more than one year, or by both; and
- (2) removal from office and disqualification for further employment by the district.

[Acts 1971, 62nd Leg., p. 411, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.124. Peace Officers

(a) A district may deputize peace officers, who may arrest any person who violates a rule of the district or a law of the state.

(b) The power of arrest of a peace officer appointed by a district extends only to offenses committed inside the district.

[Acts 1971, 62nd Leg., p. 411, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.125. Joint Projects

A district may act jointly with other districts, political subdivisions, cities, towns, states, and the federal government in exercising any power given by this chapter. The supervisors shall set the terms on which joint projects will be carried out.

[Acts 1971, 62nd Leg., p. 412, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.126. Effect of Enumeration of Powers

No statement of specific powers in this chapter is a limitation on the general powers given by this chapter, unless it is specifically so stated.

[Acts 1971, 62nd Leg., p. 412, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 53.127 to 53.140 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

§ 53.141. May Borrow Money

A district may borrow money to accomplish the purposes stated in Section 53.101 of this code.

[Acts 1971, 62nd Leg., p. 412, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.142. Notes as Security

(a) The board may, without an election, borrow money on notes of the district at a rate of interest of six percent or less a year.

(b) The district shall pay these notes solely from gross revenues of the district's water system, less the reasonable cost of maintaining and operating the system. No obligation to pay these notes may ever be a charge on the property of the district or on taxes levied or collected by the district. The obligation is solely a charge on the revenues pledged for their payment. The district shall not pay any part of the obligation from taxes levied or collected by the district.

(c) The issuance of each note must be authorized by a majority vote of the board and the board, at the time of the authorization, shall set rates and charges for the use of the facilities or the services rendered by the district. The board shall set the rates in an amount sufficient to assure the prompt payment of the principal of and interest on the notes as they mature.

[Acts 1971, 62nd Leg., p. 412, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.143. Vouchers

(a) At least three supervisors shall sign each voucher to be paid by the district. Each voucher shall refer to the book and page of the minutes which authorized the payments.

(b) The board shall issue all vouchers from a regular duplicate book and shall retain the duplicates as part of the district records.

[Acts 1971, 62nd Leg., p. 412, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.144. Payment of Organization Expenses

The board may pay all necessary expenses of creating the district and may reimburse any person, corporation, or association for money advanced to create or organize the district. The board shall pay these expenses from money obtained from the sale of bonds.

[Acts 1971, 62nd Leg., p. 412, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.145. Payment of Election Expenses

The board shall pay all expenses of calling and holding each election, except the creation election, from any district funds except the interest and sinking fund.

[Acts 1971, 62nd Leg., p. 413, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.146. Maintenance Fund

(a) A district shall have a maintenance and operating fund. The fund consists of all money collected by assessment or otherwise for maintaining and operating the property of the district.

(b) The board shall use the money in this fund to pay:

- (1) all salaries of officers and employees, other than that of the assessor and collector; and
- (2) operating expenses.

[Acts 1971, 62nd Leg., p. 413, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.147. Payment of Premiums on Surety Bonds

The board may pay the premiums on surety bonds required of officials and employees of the district out of any available funds of the district.

[Acts 1971, 62nd Leg., p. 413, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.148. District Depository

(a) The board shall select a depository for the district in accordance with the provisions of law relating to the selection of county depositories. The duties of the depository are governed by the law relating to county depositories.

(b) In the selection of the depository, the board shall act in the same capacity as does the commissioners court in the selection of county depositories.

(c) The depository shall act as district treasurer and shall execute a bond in an amount determined by the board. The depository shall make and file reports and shall preserve the district records as required of depositories for water improvement districts by Section 55.426 of this code.

[Acts 1971, 62nd Leg., p. 413, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.149. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981

§ 53.150. Payment of Damages

The district shall pay out of any funds or property of the district, except the interest and sinking fund:

- (1) compensation and damages adjudicated in condemnation proceedings; and
- (2) compensation for damage done to the property of any person or corporation in the construction and maintenance of improvements.

[Acts 1971, 62nd Leg., p. 413, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.151. Cost of Sanitary Sewer Systems

(a) The board may pay the cost of acquiring and repairing sanitary sewer systems from:

- (1) the proceeds of sale of bonds or other obligations issued by the district;
- (2) revenue obtained from maintenance taxes; or
- (3) revenue from the operation of the district's improvements.

(b) The board may pay the cost of maintaining and operating sanitary sewer systems with funds obtained from maintenance taxes or from operating

revenues. The board may not pay these costs with borrowed money.

[Acts 1971, 62nd Leg., p. 414, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 53.152 to 53.170 reserved for expansion]

SUBCHAPTER F. BOND AND TAX PROVISIONS

§ 53.171. Power to Issue Bonds

(a) A district may issue bonds to secure indebtedness.

(b) A district may not issue tax bonds or incur any debt which is to be paid with tax revenue unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election.

[Acts 1971, 62nd Leg., p. 414, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.172. Ordering Bond Election

After the creation of a district and the qualification of the supervisors, the board may order an election in the district to authorize a bond issue. The board shall set the day for the election, which must be held during the period beginning on the 20th day and ending with the 30th day after the day of the order. At this election, the board shall submit only a proposition authorizing the issuance of bonds and the levy of a tax to pay the bonds. The ballots shall be printed to allow for voting for or against the proposition: "The issuance of bonds and the levy of taxes to pay the bonds."

[Acts 1971, 62nd Leg., p. 414, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.173. Notice of Election

(a) The board shall give notice of the bond election, stating the amount of bonds to be issued. The board shall post a copy of the notice in four public places in the district, including a copy at the courthouse door. The board shall have the notice posted during the 20-day period immediately preceding the day of the election.

(b) The board shall have printed on the notice:

- (1) the proposition to be voted on; and
- (2) an estimate of the probable cost of constructing or purchasing the proposed improvement and the incidental expenses connected with the construction or purchase.

[Acts 1971, 62nd Leg., p. 414, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.174. Conduct of Bond Election

The board shall select polling places in the district and shall appoint a presiding judge, one other judge, and two clerks for each polling place. The board shall provide the necessary ballots for the election

and shall have printed on them the proposition to be submitted.

[Acts 1971, 62nd Leg., p. 414, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.175. Canvassing Bond Election Results

Immediately after the election, the presiding judge of each polling place shall return the result in the same manner as results are returned in general elections for state and county officers. The judge shall return the result to the board, which shall, at a regular or special session, canvass the vote. If a majority of the votes favor issuing bonds and levying taxes, the board shall declare the result and enter it in the minutes.

[Acts 1971, 62nd Leg., p. 415, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.176. Issuing Bonds

(a) After declaring the result of the election, the board shall make and enter an order in the minutes directing the issuing of bonds sufficient to pay for the proposed improvements. The board may not issue bonds in an amount greater than that specified in the order and notice of election.

(b) Subchapter L, of Chapter 55 of this code, providing for the issuing, denominations, rate of interest, manner and conditions of payment, and maturity dates of water improvement district bonds, apply to bonds of a fresh water supply district.

[Acts 1971, 62nd Leg., p. 415, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.177. Approving Bonds

(a) Before the board offers bonds for sale, it shall send to the attorney general a certified copy of all proceedings relating to organizing the district and issuing the bonds. They shall also provide other relevant information he requires.

(b) The attorney general shall carefully examine the bonds in connection with the record and the constitution and laws of this state governing the issuance of bonds. The attorney general shall certify the bonds if he finds that they conform to the record and the constitution and laws of this state and that they are valid and binding obligations of the district.

[Acts 1971, 62nd Leg., p. 415, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.178. Registering Bonds

When the attorney general approves the bonds, the comptroller shall register them in a book kept for that purpose. The comptroller shall record the certificate of the attorney general as to the bonds' validity. The bonds are then prima facie valid in any action, suit, or proceeding. In a suit to enforce collection of the bonds and interest on the bonds,

the only defense against the validity of the bonds is forgery or fraud.

[Acts 1971, 62nd Leg., p. 415, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.179. Selling Bonds

After the bonds are registered, the board shall sell them on the best terms and for the best price possible. The board shall promptly pay to the district depository the money received from the sale of the bonds. The district depository shall hold the money for the district.

[Acts 1971, 62nd Leg., p. 415, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.1791. Notice of Bond Sale

(a) Except for refunding bonds, bonds sold to a state or federal agency, and bonds registered with a federal agency, after any bonds are finally authorized and before they are sold by a district, the board shall publish an appropriate notice of the sale:

(1) at least one time not less than 10 days before the date of sale in a newspaper of general circulation which is published in the county or counties in which the district is located; and

(2) at least one time in one or more recognized financial publications of general circulation in the state as approved by the attorney general.

(b) If a newspaper publication required by Subdivision (1), Subsection (a), of this section is not published in the county, then notice may be published in any newspaper of general circulation in such county.

[Acts 1973, 63rd Leg., p. 616, ch. 262, § 3, eff. Aug. 27, 1973.]

§ 53.180. Recording of Bond Issues

(a) After the bonds are issued, the board shall deliver a well-bound book to the county treasurer, who shall keep in the book a list of:

- (1) all bonds which have been issued;
- (2) their manner of payment;
- (3) the amount of each bond;
- (4) the rate of interest on each bond;
- (5) the date of issuing each bond;
- (6) the date when each bond is due;
- (7) the place where each bond is payable;
- (8) the amount received for each bond; and
- (9) the tax levy to pay interest on and redeem the bonds.

(b) The county treasurer shall keep the books open at all times for inspection by any taxpayer or bondholder. When a person pays for a bond, the treasurer shall enter the payment in the book. The treasurer is entitled to receive for his services the same fee allowed by law to the county clerk for recording deeds.

[Acts 1971, 62nd Leg., p. 416, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.181. Paying Bonds and Interest

At the time for paying interest or for redeeming the bonds, the district depository shall receive and cancel any interest coupons paid or any bonds redeemed. When the board receives an interest coupon or a bond, it shall credit the account of the depository with the amount received. The board shall then cancel and destroy the bond or coupon.

[Acts 1971, 62nd Leg., p. 416, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.182. Bonds Payable from Revenues and Ad Valorem Taxes

(a) For the purpose of constructing, purchasing, repairing, improving, and extending authorized improvements, a district may issue bonds payable solely from the revenues of:

(1) the operation of the district's water system, less the reasonable cost of maintaining and operating the system; or

(2) the operation of the district's sanitary sewer system, less the reasonable cost of maintaining and operating the system; or

(3) both the water system and the sanitary sewer system.

(b) The district may also issue bonds for the purposes set out in this section, payable both from ad valorem taxes and the revenues of:

(1) its water system; or

(2) its sanitary sewer system; or

(3) both its water system and sanitary sewer system.

(c) If the district issues combination tax and revenue bonds, it shall levy, assess, and collect ad valorem taxes until the net revenues from the operation of the water system or the sanitary sewer system, together with the revenue from taxes, have accumulated a surplus in the sinking fund at least equal to the principal of and interest on the bonds scheduled to accrue in the next year. When this accumulation is completed, the board may reduce the tax levy to a rate that will produce at least 25 percent of the principal and interest requirements for each of the next succeeding years. When actual experience of three successive years demonstrates that the net revenues are adequate to pay the principal of and the interest on the bonds as they mature, the board may discontinue the tax until it becomes necessary to levy the tax again to avoid default in paying the bonds and interest.

[Acts 1971, 62nd Leg., p. 416, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.183. Election Required

(a) A district may not issue bonds as authorized in Section 53.182 of this code unless an election is first held in the district and the proposition is approved by a majority of the electors of the district who vote in the election.

(b) If the election is held to authorize revenue bonds only, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds and the pledge of net revenues for the payment of the bonds."

(c) If the election is held to authorize combination tax and revenue bonds, the board shall have the ballots printed to allow for voting for or against the proposition: "The issuance of bonds to be paid for from an adequate pledge of net revenues and levy of ad valorem taxes."

(d) Except as provided in this section, the provisions of Sections 53.172-53.175 of this code, relating to tax bond elections, apply to elections held under this section.

[Acts 1971, 62nd Leg., p. 417, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.184. Refunding Bonds

(a) With the consent of the holders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds. The board may pay the interest on the bonds annually or semiannually.

(c) The board may pay the refunding bonds serially or in any other manner it chooses, but it shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) The board shall issue the bonds in denominations of \$100 or a multiple of \$100. The board shall levy a tax sufficient to meet the payment of principal of and interest on the refunding bonds before the bonds are delivered. The refunding of bonds does not affect any taxes already due.

(e) The board shall issue refunding bonds in the manner provided for other district bonds. The board shall deduct any sum on hand to the credit of any sinking fund account in ascertaining the amount of refunding bonds to be issued, and it shall apply the money to the payment of the outstanding bonds.

(f) The board shall not issue refunding bonds until they are approved by the attorney general and registered by the comptroller. The comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The district may present the old bonds for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds.

[Acts 1971, 62nd Leg., p. 417, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.185. Rates and Charges

If the board issues revenue bonds or combination tax and revenue bonds, the board, at the time it authorizes the bonds, shall fix rates and charges for the use of the facilities or the services rendered in an amount which, together with any tax which is levied, will assure the prompt payment of the principal of and interest on the bonds as they mature.

[Acts 1971, 62nd Leg., p. 417, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.186. Interest and Sinking Fund

(a) A district shall have an interest and sinking fund. The board shall credit to this fund all taxes collected for the payment of interest or redemption of district bonds.

(b) The board shall use money in this fund only:

- (1) to pay interest on district bonds;
- (2) to cancel and surrender district bonds; and
- (3) to pay the expenses of assessing and collecting the taxes.

[Acts 1971, 62nd Leg., p. 418, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.187. Investment of Sinking Fund

The board may invest the district's sinking funds in county, municipal, district, or other bonds in which other sinking funds may by law be invested. The board may also invest the sinking funds in bonds of the series to which the funds apply, if the bonds are offered for redemption before maturity on terms the board deems advantageous to the district.

[Acts 1971, 62nd Leg., p. 418, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.188. Levy of Taxes

After the district has issued bonds, the board shall levy taxes on all property in the district, whether real, personal, or mixed. The board shall levy the taxes based on the full value of each piece of property. The board shall levy the taxes in an amount which is enough to pay the interest on the bonds and to create a sinking fund sufficient to redeem and discharge the bonds when they mature. The board shall levy taxes annually for this purpose as long as the bonds are outstanding.

[Acts 1971, 62nd Leg., p. 418, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.189. Assessor and Collector—Office

The assessor and collector shall maintain an office.

[Acts 1971, 62nd Leg., p. 418, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.190. Subject to Rules of Board

The assessor and collector is subject to the rules and regulations of the board in the same manner as

provided by law for assessors and collectors of water improvement districts.

[Acts 1971, 62nd Leg., p. 418, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 53.191 to 53.196. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 53.197. Maintenance Tax Election

(a) If the board considers it necessary to levy a maintenance tax, it shall call an election in the district.

(b) The board shall have printed on the ballot the proposition for or against the tax and the amount of the proposed tax, which may be either a fixed rate or a maximum rate.

(c) Except as provided in this section, the provisions of Sections 53.172-53.175 of this code, relating to tax bond elections, apply to elections held under this section.

[Acts 1971, 62nd Leg., p. 419, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.198. Levy of Maintenance Tax

(a) After the district has voted a maintenance tax, the board shall levy the tax and have it assessed and collected as are other taxes. The board may not levy a tax in an amount which is more than the specific sum voted.

(b) The board shall use the revenue from the maintenance tax only:

- (1) to maintain, repair, and make additions to the district improvements; and
- (2) to pay for other lawful expenses of the district.

(c) The board may levy maintenance taxes until the power is taken away by another district election. The board may hold an election on the question of repeal or reduction of maintenance taxes no more often than once every five years. The board may refrain from levying maintenance taxes if they are not necessary.

[Acts 1971, 62nd Leg., p. 420, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 53.199, 53.200. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

[Sections 53.201 to 53.230 reserved for expansion]

SUBCHAPTER G. ADDING AND EXCLUDING TERRITORY

§ 53.231. Excluding Land from District

The board, by resolution, may exclude territory from the district to the extent of at least 10 acres

contiguous and adjoining the boundaries of the district. The board may exclude land by resolution only before the district has issued and sold any bonds and before the district has levied any taxes.

[Acts 1971, 62nd Leg., p. 420, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.232. Procedure

The resolution is effective only after:

- (1) notice is published as prescribed by Section 53.233 of this code; or
- (2) the resolution is confirmed at an election ordered under Section 53.235 of this code.

[Acts 1971, 62nd Leg., p. 420, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.233. Publication of Notice

(a) The board shall have the notice of intention to adopt the resolution published once a week for two consecutive weeks in a newspaper of general circulation in the county. It shall have the first notice published before the beginning of the 14-day period immediately preceding the day of the meeting at which the resolution is to be finally passed.

(b) The board shall state in the notice the date set for the meeting and shall include in the notice a copy of the proposed resolution containing a description by metes and bounds of the land proposed to be excluded.

[Acts 1971, 62nd Leg., p. 420, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.234. Petition for Election

At any time before the date set for the meeting, 10 or a majority of the qualified electors of the district who own land in the district may file a petition with the president or secretary of the board, requesting an election on the proposition to exclude the territory.

[Acts 1971, 62nd Leg., p. 421, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.235. Order of Election

When the petition is filed, the board shall order an election on the proposition.

[Acts 1971, 62nd Leg., p. 421, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.236. Final Passage of Resolution

(a) If no petition is filed, no election on the proposition is required. The board may finally pass and adopt the resolution to exclude the territory from the district. The board shall have a copy of the resolution, signed by a majority of the supervisors and duly attested by the secretary of the board, recorded in the deed records of the county in which the district is located.

(b) The resolution takes effect when it is properly recorded.

[Acts 1971, 62nd Leg., p. 421, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.237. Cancellation of Previously Issued Bonds

If a district has authorized the issuance of bonds, and the bonds have not been sold or put into circulation, and the district has levied no tax to pay the principal of and interest on the bonds, the district, by excluding any territory, cancels this authorized bonded indebtedness.

[Acts 1971, 62nd Leg., p. 421, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.238. Redefining District Boundaries

(a) The board, within a reasonable time after excluding territory from the district, shall adopt a resolution redefining the boundaries of the district to reflect the exclusion of the territory.

(b) When the board has passed the resolution, the secretary of the district shall enter and record the resolution in the minutes or records of the board. The board shall file a certified copy of the resolution in the office of the county clerk of the county in which the district is located. The board shall also have a certified copy recorded in the deed records of the county.

[Acts 1971, 62nd Leg., p. 421, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.239. Adding Territory to District

A district may annex territory not already included in a fresh water supply district by following the procedure described in this subchapter.

[Acts 1971, 62nd Leg., p. 422, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.240. Annexation Petition

(a) A person may present a petition to the secretary of the board, requesting that the district annex the described area.

(b) The petition must be signed by a majority of the persons who own land in the described area; but if more than 50 persons own land in the area, the petition must be signed by at least 50 of them.

[Acts 1971, 62nd Leg., p. 422, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.241. Time and Place of Hearing

The board by order shall set the time and place of the hearing on the petition. The board may not hold the hearing before the expiration of the 30th day after the day of the order.

[Acts 1971, 62nd Leg., p. 422, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.242. Notice of Annexation Hearing

The secretary shall issue notice of the time and place of hearing. In the notice, he shall describe the territory proposed to be annexed. The secretary shall post copies of the notice in three public places in the territory proposed to be annexed. He shall post the notices for at least the 15 days immediately preceding the day of the hearing. He shall also publish the notice once in a newspaper of general circulation in the county before the beginning of the 15-day period immediately preceding the day of the hearing.

[Acts 1971, 62nd Leg., p. 422, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.243. Resolution to Add Territory

(a) The board may by resolution add the territory to the district if, on hearing the petition, they find that:

- (1) the proposed addition of territory to the district is feasible and practicable; and
- (2) the addition would be of benefit both to the territory and to the district.

(b) The board need not include all of the land described in the petition if it finds that a modification or change is necessary or desirable.

(c) The board shall have a copy of the resolution, signed by a majority of the supervisors and attested by the secretary of the board, recorded in the deed records of the county.

(d) The resolution takes effect when it is properly recorded.

[Acts 1971, 62nd Leg., p. 422, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.244. Apportionment of District Indebtedness

The added territory shall bear its pro rata part of the indebtedness or taxes that are owed, contracted, or authorized by the district to which the new territory has been added. Before the added territory is subject to any part of the district indebtedness or taxes, however, the board shall order an election in the district, as enlarged, on the question of the assumption of the indebtedness or taxes by the district as enlarged.

[Acts 1971, 62nd Leg., p. 422, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.245. Conduct of Elections

An election held either to confirm the exclusion of territory or to assume indebtedness or taxes is to be held as are elections for issuing bonds by the district.

[Acts 1971, 62nd Leg., p. 423, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.246. Excluding Land Inside Cities or Towns

(a) The board of supervisors of a district located entirely in one county may exclude from the district

land which is inside the boundaries of a city or town if:

- (1) the district, when created, did not include inside its boundaries any land which was inside the corporate limits of the city or town;
- (2) the district has inside its boundaries land which has been annexed by a city or town since the district was created;
- (3) the city or town provides to the annexed land the same services as the district may provide to it;
- (4) the population of the city or town is more than 4,000, according to the last preceding federal census;
- (5) the city or town has not adopted a home-rule charter; and
- (6) the area to be excluded has a part of its boundary identical with a part of the boundary of the district as it exists at the time of the exclusion.

(b) Under this section, the board shall not at any time reduce the size of the district to an area less than 90 percent of the area it encompassed at the time of its creation.

[Acts 1971, 62nd Leg., p. 423, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.247. Meeting to Determine Exclusion

The board, by three-fifths vote, may call a meeting of the board to determine whether or not the district shall exclude any land from the district. The board shall call a meeting for this purpose if five percent of the qualified property taxpaying electors of the district petition them to do so.

[Acts 1971, 62nd Leg., p. 423, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.248. Requirements of Petition

The petitioners, in their petition, shall describe the proposed new boundaries of the district. They shall state also that it is proposed that all the land inside the boundaries of the district not included inside the proposed new boundaries be excluded from the district.

[Acts 1971, 62nd Leg., p. 423, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.249. Notice of the Meeting

(a) The board, in the notice of the meeting, shall state:

- (1) the proposed new boundaries of the district;
- (2) the proposal to exclude all land outside the proposed new boundaries;
- (3) the time and place of the meeting; and
- (4) the right of any landowner of the district to appear at the meeting and to be heard in support of or in opposition to establishing the new boundaries and excluding the land proposed to be excluded.

(b) The board shall address the notice to "All landowners and taxpayers of _____ County Fresh Water Supply District No. _____ (inserting the name and number of the district) and all other persons concerned."

[Acts 1971, 62nd Leg., p. 423, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.250. Posting of Notice

The board shall post a certified copy of the notice in three public places inside the district. The board shall also have the notice published one time before the beginning of the 10-day period immediately preceding the day of the meeting, in a newspaper of general circulation in the district. If there is no newspaper of general circulation in the district, the board shall have the notice printed in a newspaper of general circulation in the county where the district is located.

[Acts 1971, 62nd Leg., p. 424, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.251. Power to Adjourn Meeting

The board may adjourn the meeting from time to time in their discretion.

[Acts 1971, 62nd Leg., p. 424, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.252. Excluding Land by Resolution or Election

(a) The board may, at its discretion, either call an election on the question of whether or not to exclude the land from the district, or, by resolution, declare the land excluded from the district, if:

- (1) no district landowner has filed, by the time of the meeting, a written protest against excluding the land from the district;
- (2) no district landowner protests the exclusion at the meeting; or
- (3) the protests, if any, represent less than three percent of the total superficial area of the district.

(b) If the board, by resolution, declares that the land is excluded, it shall state in the resolution the new boundaries of the district. The board shall file a copy of the resolution, signed by a majority of the supervisors and duly attested by the secretary, in the office of the county clerk. The county clerk shall record the resolution in the deed records of the county in which the district is located. After the resolution is recorded, the land excluded is no longer a part of the district.

[Acts 1971, 62nd Leg., p. 424, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.253. Protest

If a written protest is filed with the board before the meeting or if a protest is made at the meeting

by a district landowner, the board shall pass on the protest after hearing the evidence.

[Acts 1971, 62nd Leg., p. 424, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.254. Election Required by Protests

(a) If the owner or owners of as much as three percent of the district land protest the exclusion, the board shall call an election to decide whether or not the proposed land shall be excluded.

(b) Except as provided in this subchapter, the provisions of Sections 53.022-53.028 of this code apply, to the extent they are applicable, to elections held under this section. The board shall perform the duties imposed on the commissioners court by those sections.

[Acts 1971, 62nd Leg., p. 424, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.255. Notice of Election to Exclude Land

(a) The board shall post a notice of the election stating

- (1) the time and place for holding the election;
- (2) the proposed new boundaries of the district;
- (3) the proposition to be voted on; and
- (4) the names of the presiding officers appointed by the board to hold the election.

(b) The board shall post a copy of the notice in four public places in the district and a copy at the courthouse door for the 20 days immediately preceding the date of the election.

[Acts 1971, 62nd Leg., p. 424, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.256. Ballots

The board shall provide the necessary ballots for the election and shall have the ballots printed to allow for voting for or against the proposition:

“The establishment of the new boundaries of the _____ County Fresh Water Supply District No. _____ (inserting the name of the district).”

[Acts 1971, 62nd Leg., p. 425, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.257. Order Excluding Land

If the election favors establishing the new boundaries, the board shall enter an order declaring the result of the election. The board shall enter the order in its minutes, declaring that the land which has been excluded is no longer a part of the district. In the order the board shall also describe the new boundaries. The board shall file a copy of the order, signed by a majority of the board and duly attested by the secretary, in the office of the county clerk. The county clerk shall record the copy in the deed records of the county in which the district is located and the land shall cease to be a part of the district.

[Acts 1971, 62nd Leg., p. 425, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.258. If Proposition Defeated

If the proposition to exclude the land is defeated, the board may not act on a petition to exclude all or any part of the land voted on within one year of the election.

[Acts 1971, 62nd Leg., p. 425, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.259. Rights of Bondholders

No proceeding under this subchapter diminishes or impairs the rights of the holders of any outstanding and unpaid bonds, warrants, or other certificates of indebtedness of a district.

[Acts 1971, 62nd Leg., p. 425, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.260. Apportionment of District Indebtedness

(a) Each property owner in the excluded territory shall pay as his proportional share of each series of district indebtedness a sum equal to the percentage of the “net indebtedness” which the assessed value of his excluded property bears to the total assessed value of all property in the district before the exclusion. For each series of indebtedness, all property values are to be taken from the tax rolls of the district for the year in which the series of indebtedness was issued and sold.

(b) In Subsection (a) of this section, the phrase “net indebtedness” means the greater of:

- (1) the face value (par value plus accrued interest) of the outstanding bonds or warrants in the series at the time of the exclusion, less the sinking funds, reserves, and deposits held for paying the indebtedness; and
- (2) the market value of the outstanding bonds or warrants in the series at the time of the exclusion, less the sinking funds, reserves, and deposits held for paying the indebtedness.

[Acts 1971, 62nd Leg., p. 425, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.261. Resolution Establishing Apportionment

(a) When the board adopts the resolution or enters the order excluding land, it shall determine the proportional share of district indebtedness chargeable to the excluded land. The board shall adopt in its records a resolution establishing the proportional share. When the board determines and establishes the amount, it is binding on all persons and property in both the excluded and the remaining areas of the district.

(b) The board shall charge the property remaining inside the district with the remaining district indebtedness. The property owners of the newly defined district shall pay the remaining indebtedness by annual taxes.

[Acts 1971, 62nd Leg., p. 426, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.262. Current Taxes—Lien

(a) The owners of the property in the excluded land shall pay the taxes levied against their property by the district for the year in which the land was excluded. Until paid, these taxes are a lien against the property excluded from the district as though the land had not been excluded.

(b) The board shall credit the amount collected against the total amount which the owners of the excluded land owe. The board may not levy additional taxes or other charges against the excluded land for the year in which the exclusion is made.

[Acts 1971, 62nd Leg., p. 426, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.263. Annual Levy of Taxes Against Excluded Territory

(a) The district shall levy and collect taxes against the property in the excluded territory on the same basis as the district levies and collects taxes annually against the property remaining inside the district, until the amount collected equals the total net amount chargeable against the excluded territory.

(b) The district may lower the rates on the taxes and charges assessed against the property in the excluded territory for the last year during which the assessments are made, in order to obtain only enough money to discharge the balance of the sum chargeable against the excluded territory.

(c) The district shall continue to levy taxes against the land in the excluded territory each year until enough taxes have been levied to cover the excluded territory's pro rata share of the district's indebtedness.

[Acts 1971, 62nd Leg., p. 426, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.264. Voluntary Payments

A municipality authorized to do so, and any person, firm, or corporation desiring to do so may voluntarily pay to the district at any time any amount toward the discharge of the amount chargeable against the property in the excluded territory. The district shall credit all voluntary payments as a reduction of the amount charged against the excluded territory.

[Acts 1971, 62nd Leg., p. 426, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.265. Status of Delinquent Taxes

All taxes against land in the excluded territory which are delinquent at the time of exclusion or which become delinquent after the exclusion have the same status they would have had if the district had not excluded the land. The district has and may exercise all of the liens, rights, and remedies it would have had against the persons and property

against which the taxes were assessed if the district had not excluded the territory.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.266. Collection of Delinquent Taxes

The principal of all delinquent taxes which were levied against excluded territory after the exclusion, and which are collected before final payment of the indebtedness charged to the territory, shall be credited against that indebtedness as if the taxes had been collected when due. The district shall enforce and collect all taxes remaining delinquent after the collection of all charges provided for in this subchapter.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.267. Penalties and Interest

Taxes and charges provided for in this subchapter are subject to the same penalties and interest as are other taxes which the district levies. The district has the rights and remedies concerning these taxes which it has concerning other taxes.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.268. Discharge of Excluded Land From Obligations

On payment of its pro rata share of the district indebtedness except for delinquent taxes against specific pieces of property, the excluded territory is released from all liability to the district except the liability on each piece of property for payment of the delinquent taxes.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.269. Resolution of Discharge

(a) When the liability of the excluded territory is discharged, except for delinquent taxes, the board shall adopt a resolution stating this fact and listing the property on which the taxes are unpaid. In the list the supervisors shall give a brief description of the property, the name of the owner, and the amount of the principal sum owed for each year there is a delinquency.

(b) The supervisors shall have the resolution entered in their minutes and recorded in the deed records of the county.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.270. Release on Payment of Delinquent Taxes

When a property owner pays the delinquent taxes against property listed in the resolution, it is discharged from all obligations to the district. The release is established by a certificate of the tax assessor and collector of the district certifying that

the property owner has paid the delinquent taxes against the property.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.271. Rights after Exclusion

The property owners of the excluded territory have no right, title, or interest in the district property after the land is excluded.

[Acts 1971, 62nd Leg., p. 427, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.272. Debts Incurred after Exclusion

No property or property owner in the excluded territory is liable for the payment of any bonds, warrants, or other indebtedness issued or incurred by the district after the territory is excluded.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 53.273. Findings of Fact by the Supervisors

The board's findings of fact relating to the excluded territory are prima facie valid if they are entered in the minutes. The findings are not contestable except in a direct attack instituted in a court of competent jurisdiction within the time and in the manner provided by law for election contests.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971.]

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Acts 1971, 62nd Leg., p. 774, ch. 84, amends the Water Code by adding Chapter 54, Municipal Utility Districts.

SUBCHAPTER A. GENERAL PROVISIONS

§ 54.001. Definitions

In this chapter:

(1) "District" means a municipal utility district operating under this chapter.

(2) "Board" means the board of directors of a district.

(3) "Director" means a member of the board of directors of a district.

(4) "Commission" means the Texas Water Commission.

(5) "Executive director" means the executive director of the Texas Department of Water Resources.

(6) "Public agency" means any city, the United States, the State of Texas, and any district or authority created under Article XVI, Section 59, or Article III, Section 52, of the Texas Constitution, including any river authority, or any other political subdivision or governmental agency of the United States or the State of Texas.

(7) "City" means any incorporated city, town, or village of the State of Texas whether operating under general law or under its home-rule charter.

(8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in Article I, Chapter 160, Acts of the 58th Legislature, 1963, as amended (Article 970a, Vernon's Texas Civil Statutes).

(9) "Sole expense" means the actual cost of the relocation, raising, rerouting, or changing grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

[Acts 1971, 62nd Leg., p. 774, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

[Sections 54.002 to 54.010 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT**

§ 54.011. Creation of District

A municipal utility district may be created under and subject to the authority, conditions, and restrictions of Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 774, ch. 84, § 1.]

§ 54.012. Purposes of a District

A district shall be created for the following purposes:

- (1) the control, storage, preservation, and distribution of its storm water and floodwater, the water of its rivers and streams for irrigation, power, and all other useful purposes;
- (2) the reclamation and irrigation of its arid, semiarid, and other land needing irrigation;
- (3) the reclamation and drainage of its overflowed land and other land needing drainage;
- (4) the conservation and development of its forests, water, and hydroelectric power;
- (5) the navigation of its inland and coastal water;
- (6) the control, abatement, and change of any shortage or harmful excess of water;
- (7) the protection, preservation, and restoration of the purity and sanitary condition of water within the state; and
- (8) the preservation of all natural resources of the state.

[Acts 1971, 62nd Leg., p. 775, ch. 84, § 1.]

§ 54.013. Composition of District

(a) A district may include the area in all or part of any county or counties including all or part of any cities and other public agencies.

(b) The land composing a district need not be in one body, but may consist of separate bodies of land separated by land which is not included in the district.

[Acts 1971, 62nd Leg., p. 775, ch. 84, § 1.]

§ 54.014. Petition

When it is proposed to create a district, a petition requesting creation shall be filed with the commission. The petition shall be signed by a majority in value of the holders of title of the land within the proposed district, as indicated by the county tax rolls. If there are more than 50 persons holding title to the land in the proposed district, as indicated by the county tax rolls, the petition is sufficient if it is signed by 50 holders of title to the land.

[Acts 1971, 62nd Leg., p. 775, ch. 84, § 1.]

§ 54.015. Contents of Petition

The petition shall:

- (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area;
- (2) state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition; and
- (3) include a name of the district which shall be generally descriptive of the locale of the district followed by the words Municipal Utility District, or if a district is located within one county, it may be designated "_____ County Municipal Utility District No. _____." (Insert the name of the county and proper consecutive number.) The proposed district shall not have the same name as any other district in the same county.

[Acts 1971, 62nd Leg., p. 775, ch. 84, § 1.]

§ 54.016. Consent of City

(a) No land within the corporate limits of a city or within the extraterritorial jurisdiction of a city, shall be included in a district unless the city grants its written consent, by resolution or ordinance, to the inclusion of the land within the district. The request to a city for its written consent to the creation of a district, shall be signed by a majority in value of the holders of title of the land within the proposed district as indicated by the county tax rolls or, if there are more than 50 persons holding title to the land in the proposed district as indicated by the county tax rolls, the request to the city will be sufficient if it is signed by 50 holders of title to the land in the district. A petition for the written consent of a city to the inclusion of land within a district shall describe the boundaries of the land to be included in the district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, and state the general nature of the work proposed to be done, the necessity for the work, and the cost of the project as then estimated by those filing the petition.

(b) If the governing body of a city fails or refuses to grant permission for the inclusion of land within its extraterritorial jurisdiction in a district within 120 days after receipt of a written request, a majority of the electors in the area proposed to be includ-

ed in the district or the owner or owners of 50 percent or more of the land to be included may petition the governing body of the city and request the city to make available to the land the water or sanitary sewer service contemplated to be provided by the district.

(c) If the governing body of the city and a majority of the electors or the owner or owners of 50 percent or more of the land to be included in the district fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within six months after receipt of the petition, the failure shall constitute authorization for the inclusion of the land in the district under the provisions of this section. Authorization for the inclusion of such land within the district under the provisions of this section shall mean only authorization to initiate proceedings to include the land within the district as otherwise provided by this Act.

(d) The provisions of this section relating to the method of including land in a district without securing the written consent of a city applies only to land within the extraterritorial jurisdiction of a city and does not apply to land within the corporate limits of a city. Under no circumstances shall land within the corporate limits of a city be included in a district without the written consent, by ordinance or resolution, of the city. The provisions of this section shall apply whether the land is proposed to be included in the district at the time of creation of a district or to be included by annexation to a district.

(e) A city may provide in its written consent to the inclusion of land in a district, that the district construct all facilities to serve the land in accordance with plans and specifications which have been approved by the city. The city may also provide in its written consent that the city shall have the right to inspect all facilities being constructed by a district. The city's consent to the inclusion of land in the district may also contain restrictions on the terms and provisions of the district's bonds and notes issued to provide service to the land and conditions on the sale of the district's bonds and notes if the restrictions and conditions do not generally render the bonds and notes of districts in the city's extraterritorial jurisdiction unmarketable. The city's consent to the inclusion of land in a district may restrict the purposes for which a district may issue bonds to the purposes of the purchase, construction, acquisition, repair, extension and improvement of land, easements, works, improvements, facilities, plants, equipment and appliances necessary to:

- (1) provide a water supply for municipal uses, domestic uses and commercial purposes;
- (2) collect, transport, process, dispose of and control all domestic, industrial or communal wastes whether in fluid, solid or composite state; and
- (3) gather, conduct, divert and control local storm water or other local harmful excesses of

water in the district and the payment of organization expenses, operation expenses during construction and interest during construction.

(f) A city may provide in its written consent for the inclusion of land in a district that a contract ("allocation agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. The allocation agreement shall contain the following provisions:

- (1) a method by which the district shall continue to exist following the annexation of all territory within the district by the city, if the district is initially located outside the corporate limits of the city;
- (2) an allocation of the taxes or revenues of the district or the city which will assure that, following the date of the inclusion of all the district's territory within the corporate limits of the city, the total annual ad valorem taxes collected by the city and the district from taxable property within the district does not exceed an amount greater than the city's ad valorem tax upon such property;
- (3) an allocation of governmental services to be provided by the city or the district following the date of the inclusion of all of the district's territory within the corporate limits of the city;
- (4) such other terms and conditions as may be deemed appropriate by the city.

(g) In addition to all the rights and remedies provided by the laws of the state in the event a district violates the terms and provisions of a city's written consent, the city shall be entitled to injunctive relief or a writ of mandamus issued by a court of competent jurisdiction restraining, compelling or requiring the district and its officials to observe and comply with the terms and provisions prescribed in the city's written consent to the inclusion of land within the district.

(h) A city with a population of 1 million or less may provide in its written consent for the inclusion of land in a district that after annexation the city may set rates for water and/or sewer services for property that was within the territorial boundary of such district at the time of annexation, which rates may vary from those for other properties within the city for the purpose of wholly or partially compensating the city for the assumption of obligation under this code providing that:

- (1) such written consent contains a contract entered into by the city and the persons petitioning for creation of the district setting forth the time and/or the conditions of annexation by the city which annexation shall not occur prior to the installation of 90 percent of the facilities for which district bonds were authorized in the written consent; and that
- (2) the contract sets forth the basis on which rates are to be charged for water and/or sewer services following annexation and the length of

time they may vary from those rates charged elsewhere in the city; and that

(3) the contract may set forth the time, conditions, or lands to be annexed by the district; and that

(4)(A) Each purchaser of land within a district which has entered into a contract with a city concerning water and/or sewer rates as set forth herein shall be furnished by the seller at or prior to the final closing of the sale and purchase with a separate written notice, executed and acknowledged by the seller, which shall contain the following information:

(i) the basis on which the monthly water and/or sewer rate is to be charged under the contract stated as a percentage of the water and/or sewer rates of the city;

(ii) the length of time such rates will be in effect;

(iii) the time and/or conditions of annexation by the city implementing such rates.

The provisions of Sections 50.301(d) through Section 50.301(n), as amended, and Section 50.301(p), Water Code, are herein incorporated by reference thereto, and are applicable to the separate written notice required by Section 54.016(h)(4).

A suit for damages under the provisions of these referenced sections must be brought within 90 days after the purchaser receives his or her first water and/or sewer service charge following annexation, or the purchaser loses his or her right to seek damages under this referenced section.

(B) The governing board of any district covered by the provisions of this subsection shall file with the county clerk in each of the counties in which all or part of the district is located a duly affirmed and acknowledged statement which includes the information required in Section 54.016(h)(4)(A) and a complete and accurate map or plat showing the boundaries of the district.

The provisions of Sections 50.302(c) through Section 50.302(j), Water Code, as amended, are herein incorporated by reference thereto.

[Acts 1971, 62nd Leg., p. 775, ch. 84, § 1. Amended by Acts 1975, 64th Leg., p. 247, ch. 98, § 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 2026, ch. 796, §§ 1, 4, eff. Aug. 27, 1979.]

Sections 2, 3, 5 and 6 of the 1979 amendatory act provided:

"Sec. 2. Each allocation agreement must be approved by the Texas Department of Water Resources prior to its implementation.

"Sec. 3. Notwithstanding any contrary provision of the law, a district which is a party to an allocation agreement, in accordance with Section 54.016(f), Water Code, as amended, shall continue to exist and perform those services provided by said contract after annexation of all of the territory within the district by the city which has entered into the contract. The district shall be abolished and the city shall succeed to all the remaining properties, powers, duties, assets, debts, liabilities, and obligations of the district on the date specified in the contract."

"Sec. 5. The provisions of this Act are severable. If any word, phrase, clause, paragraph, sentence, section, part, or provision of this Act or the application thereof to this person or circumstance shall be held to be invalid or unconstitutional, the remainder of this

Act shall nevertheless be valid; and the legislature hereby declares that the Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, section, part, or provision.

"Sec. 6. All laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict."

§ 54.0161. Review of Creation by County

(a) If all or part of a proposed district is to be located outside the extraterritorial jurisdiction of a city, the commissioners court of the county in which the district is to be located may review the petition for creation and other evidence and information relating to the proposed district that the commissioners consider necessary. Petitioners for the creation of a district shall submit to the county commissioners court any relevant information requested by the commissioners court in the event a review is done.

(b) In the event of a review, the commissioners court shall submit to the commission, at least 10 days before the date set for the hearing on the petition, a written opinion stating whether or not the county would recommend the creation of the proposed district and stating any findings, conclusions, and other information that the commissioners think would assist the commission in making a final determination on the petition.

(c) In passing on a petition under this subchapter, the commission shall consider the written opinion submitted by the county commissioners.

[Acts 1975, 64th Leg., p. 1293, ch. 485, § 1, eff. Sept. 1, 1975.]

§ 54.017. Deposit

(a) The petition shall be accompanied by a deposit of \$600 which shall be paid to the commission for the use of the state, and no part of the deposit shall be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be deposited with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition, at which time the commission shall direct the state treasurer to transfer the deposit to the general revenue fund.

(c) If at any time before the hearing the petitioners desire to withdraw the petition, the commission shall direct the refund of the deposit to petitioners, or their attorney of record, whose receipt for the deposit shall be sufficient.

[Acts 1971, 62nd Leg., p. 777, ch. 84, § 1. Amended by Acts 1983, 68th Leg., p. 367, ch. 81, § 9(d), eff. Sept. 1, 1983.]

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

§ 54.018. Establishing a Date of Hearing

On the filing of a petition, the commission or someone authorized by the commission, shall fix a date, time, and place at which the petition shall be

heard and shall issue notice of the date, time, and place of hearing. The notice shall inform all persons of their right to appear and present evidence and testify for or against the allegations in the petition, the form of the petition, the necessity and feasibility of the district's project, and the benefits to accrue.

[Acts 1971, 62nd Leg., p. 777, ch. 84, § 1.]

§ 54.019. Notice of Hearing

(a) Notice of the hearing shall be published in a newspaper with general circulation in the county or counties in which the district is located once a week for two consecutive weeks. The first publication shall be at least 30 days before the date of the hearing.

(b) Notice of the hearing shall also be given by mailing a copy of the notice to each city which has extraterritorial jurisdiction in the county or counties in which the proposed district is located and which has formally requested notice of the creation of all districts in the county or counties in which the city's extraterritorial jurisdiction is located.

(c) The request by a city for notice of hearings on the creation of districts shall be filed annually with the commission during the month of January. The request shall state the names of not more than two persons who are to receive the notice on behalf of the city and the mailing address of the persons.

(d) A certificate of a representative of the commission that notice was mailed to all cities which have extraterritorial jurisdiction in the county or counties in which the proposed district is located and which have formally requested notice shall be conclusive evidence that notice was properly mailed to all these cities.

(e) At least 30 days before the date of the hearing, the petitioner shall send the notice of the hearing by certified mail, return receipt requested, to all fee simple landowners, as reflected on the county tax rolls, whose property is located within the proposed district except property owners who have signed the petition for creation. Ownership of the property shall be certified by the tax assessor and collector from the tax rolls as of the date of the filing of the petition with the Texas Department of Water Resources.

[Acts 1971, 62nd Leg., p. 777, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 54.020. Hearing

(a) At the hearing, the commission shall examine the petition to ascertain its sufficiency, and any person interested may appear before the commission in person or by attorney and offer testimony on the sufficiency of the petition and whether the project is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission shall have jurisdiction to determine all issues on the sufficiency of the petition and creation of the district.

(c) The hearing may be adjourned from day to day, and the commission shall have power to make all incidental orders necessary with respect to the matters before it.

[Acts 1971, 62nd Leg., p. 778, ch. 84, § 1.]

§ 54.021. Granting or Refusing Petition

(a) After the hearing of the petition if it is found that the petition conforms to the requirements of Section 54.015 of this code and that the project is feasible and practicable and is necessary and would be a benefit to the land to be included in the district, the commission shall so find by its order and grant the petition.

(b) In determining if the project is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

(1) the availability of comparable service from other systems, including but not limited to water districts, municipalities, and regional authorities;

(2) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and

(3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:

(A) land elevation;

(B) subsidence;

(C) groundwater level within the region;

(D) recharge capability of a groundwater source;

(E) natural run-off rates and drainage;

(F) water quality; and

(G) total tax assessments on all land located within a district.

(c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall so find and exclude all land which is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(d) If the commission finds that the petition does not conform to the requirements of Section 54.015 of this code or that the project is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall so find by its order and deny the petition.

(e) A copy of the order of the commission granting or denying a petition shall be mailed to each city having extraterritorial jurisdiction in the county or counties in which the district is located who requested notice of hearings as provided in Section 54.019 of this code.

[Acts 1971, 62nd Leg., p. 778, ch. 84, § 1. Amended by Acts 1975, 64th Leg., p. 1292, ch. 484, § 1, eff. Sept. 1, 1975.]

§ 54.022. Temporary Directors

If the commission grants the petition, it shall appoint five temporary directors to serve until permanent directors are elected.

[Acts 1971, 62nd Leg., p. 778, ch. 84, § 1.]

§ 54.023. Appeal From the Order of the Commission

Any person who signed the petition, any city, or any person who appeared in person or by attorney or agent and offered testimony for or against the creation of the district, may appeal from the order of the commission granting or refusing the petition within 30 days after the entry of the order.

[Acts 1971, 62nd Leg., p. 778, ch. 84, § 1.]

§ 54.024. Supervision by Department

The rights, powers, privileges, authority, and functions conferred on a district by granting of a petition for creation shall be subject to the continuing right of supervision of the state to be exercised by and through the Texas Department of Water Resources.

[Acts 1971, 62nd Leg., p. 778, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 54.025. Qualification of Temporary Directors

After a district has been organized, each temporary director shall execute his bond in accordance with the provisions of Section 54.116 of this code and shall take his oath of office, and the board shall meet and organize.

[Acts 1971, 62nd Leg., p. 778, ch. 84, § 1.]

§ 54.026. Confirmation and Director Election

Before issuing any bonds or other obligations an election shall be held within the boundaries of the proposed district to determine if the proposed district shall be established and to elect five permanent directors.

[Acts 1971, 62nd Leg., p. 779, ch. 84, § 1.]

§ 54.027. Notice of Confirmation and Director Election

Notice of the confirmation and director election shall state the day and place or places for holding the election, the proposition to be voted on, and the candidates for director to be voted on. The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which the proposed district is located. The first publication of the notice shall be at least 14 days before the day set for the election.

[Acts 1971, 62nd Leg., p. 779, ch. 84, § 1.]

§ 54.028. Conduct of Election

(a) Absentee balloting in the confirmation and director election shall begin 10 days before the

election and shall end as provided in the Texas Election Code.

(b) The ballots for the election shall be printed to provide for voting "For District" and "Against District" and the names of the five persons appointed by the commission who qualified as temporary directors. The ballots shall also have five blank places after the names of the temporary directors in which a voter may write the names of other persons for directors.

(c) In no event shall any voter vote for more than five persons for director.

[Acts 1971, 62nd Leg., p. 779, ch. 84, § 1.]

§ 54.029. Results of Election

(a) Immediately after the confirmation and director election, the presiding judge shall make returns of the result to the temporary board of directors. The temporary board of directors shall canvass the returns and declare the results at the earliest practicable time.

(b) If a majority of the votes cast in the election favor the creation of the district, then the temporary board shall declare that the district is created and enter the result on its minutes. If a majority of the votes cast in the election are against the creation of the district, the temporary board shall declare that the district was defeated and enter the result in its minutes and file a copy of the order with the commission.

(c) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries, and shall be filed with the executive director and in the deed records of the county or counties in which this district is located.

(d) The temporary board shall also declare the five persons receiving the highest number of votes for directors to have been elected as permanent directors.

(e) Unless otherwise agreed, the two directors elected who received the fewest number of votes shall serve until the election following the confirmation election and the three who received the highest number of votes shall serve until the second succeeding election after the confirmation election.

[Acts 1971, 62nd Leg., p. 779, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 22, eff. June 10, 1981.]

§ 54.030. Conversion of Certain Districts Into Districts Operating Under This Chapter

(a) Any water improvement district, water control and improvement district, fresh water supply district, levee improvement district, irrigation district, or any other conservation and reclamation district created under Article XVI, Section 59, of the Texas Constitution, may be converted to a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that in its judgment, conversion into a municipal utility district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district. The resolution shall also request the commission to hold a hearing on the question of the conversion of the district.

(c) A copy of the resolution shall be filed with the commission along with a deposit for costs of \$600 which shall be used by the commission as provided in Section 54.017 of this code.

[Acts 1971, 62nd Leg., p. 779, ch. 84, § 1. Amended by Acts 1983, 68th Leg., p. 368, ch. 81, § 9(e), eff. Sept. 1, 1983.]

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

§ 54.031. Establishing Date For Hearing

When the resolution requesting conversion is filed, the commission, or someone authorized by the commission, shall fix a date, time, and place when the conversion hearing will be held.

[Acts 1971, 62nd Leg., p. 780, ch. 84, § 1.]

§ 54.032. Conversion of District: Notice

(a) Notice of the conversion hearing shall be given by publishing notice in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication to be made not less than 14 full days before the time set for the hearing.

(c) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the resolution adopted by the district in full; and
- (3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

[Acts 1971, 62nd Leg., p. 780, ch. 84, § 1.]

§ 54.033. Conversion of District; Findings

(a) After a hearing, if the commission finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter and no confirmation election shall be required.

(b) If the commission finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and

property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the commission entered under this section shall be subject to appeal or review within 30 days after entry of the order of the commission granting or denying the conversion.

(d) A copy of the commission order converting a district shall be filed in the deed records of the county or counties in which the district is located.

[Acts 1971, 62nd Leg., p. 780, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 23, eff. June 10, 1981.]

§ 54.034. Effect of Conversion

A district which is converted into a district operating under this chapter shall:

- (1) be constituted a municipal utility district operating under and governed by this chapter;
- (2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and
- (3) have and may exercise all the powers, authority, functions, duties, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

[Acts 1971, 62nd Leg., p. 780, ch. 84, § 1.]

§ 54.035. Reservation of Certain Powers For Converted Districts

(a) Any district after converting into a municipal utility district may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion and may retain its original name.

(b) Any district converted into a municipal utility district shall continue to have the power to issue bonds voted before the conversion but yet unissued and levy and collect maintenance taxes, bond taxes, or other taxes which were voted before the conversion.

(c) At the time of making the order of conversion, the commission shall specify in the order the specific provisions of this code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter and whether a new name will be assigned to the district or the old name retained.

(d) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(e) In all cases in which this chapter does make specific provision, this chapter shall, after conver-

sion, control the operations and procedure of the converted district.

[Acts 1971, 62nd Leg., p. 781, ch. 84, § 1.]

§ 54.036. Directors to Continue Serving

The existing board of a district converted to a municipal utility district under the provisions of this chapter shall continue to serve as the board of the converted district until the first Saturday in April following conversion of the district, at which time five directors shall be elected to serve for such period of time and in the same manner as provided in Section 54.029 of this code for directors first elected for a district.

[Acts 1971, 62nd Leg., p. 781, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1983, 68th Leg., p. 1105, ch. 250, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5214, ch. 951, § 6, eff. Jan. 1, 1984.]

Section 15 of Acts 1983, 68th Leg., p. 5214, ch. 951, provides: "Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

[Sections 54.037 to 54.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 54.101. Board of Directors

A district shall be governed by a board of five directors.

[Acts 1971, 62nd Leg., p. 781, ch. 84, § 1.]

§ 54.102. Qualifications for Directors

To be qualified to serve as a director, a person shall be at least 21 years old, a resident citizen of the State of Texas, and either own land subject to taxation in the district or be a qualified voter within the district.

[Acts 1971, 62nd Leg., p. 781, ch. 84, § 1.]

§ 54.1021. Disqualification of Members of the Board

(a) A person is disqualified from serving as a member of the board of a district proposing to provide or actually providing water and sewer services or either of these services to household users as the principal functions of the district, if:

- (1) he is related within the third degree of affinity or consanguinity to a developer of property in the district or to a member of the board or the manager, engineer, or attorney for the district;
- (2) he is an employee of any developer of property in the district or any other director, manager, engineer, or attorney for the district;
- (3) he is a developer of property in the district;
- (4) he is serving as an attorney, consultant, engineer, manager, architect, or in some other professional capacity for the district or a develop-

er of property in the district in connection with the district or property located in the district; or

(5) he is:

(A) a party to a contract with or along with the district except for the purchase of public services furnished by the district to the public generally; or

(B) a party to a contract with or along with a developer of property in the district relating to the district or to property within the district, other than a contract limited solely to the purpose of purchasing or conveying real property in the district for the purpose of either establishing a permanent residence or establishing a commercial business within the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a disqualification under Subsection (a) of this section, it shall replace the person serving as a member of the board with a person who would not be disqualified.

(c) Any person who willfully occupies an office as director and exercises the powers and duties of that office when disqualified under the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction, shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

(e) Any rights obtained by any third party through official action of a board of a district covered by this section are not impaired or affected by the disqualification under this section of any member of the board to serve, provided that the third party had no knowledge at the time the rights were obtained of the fact that the member of the board was disqualified to serve.

[Acts 1973, 63rd Leg., p. 1751, ch. 635, § 4, eff. Aug. 27, 1973. Amended by Acts 1975, 64th Leg., p. 600, ch. 248, § 4, eff. May 20, 1975.]

§ 54.103. Election of Directors; Term of Office

(a) On the first Saturday in April in the first even-numbered year following the confirmation election, an election shall be held in a district for the election of two directors who shall each serve two-year terms and three directors who shall serve four-year terms. Thereafter, on the same date in each following even-numbered year, there shall be an election of two directors in one election and three directors in the next election in continual sequence.

(b) All elections of directors shall be held in districts on the first Saturday in April. In a district

that is required to change the date of the election of directors to comply with this requirement, the provisions of Subsections (c) and (d), Section 9b, Texas Election Code, as amended (Article 2.01b, Vernon's Texas Election Code), govern the adjustment of dates and events in connection with the election.

(c) The permanent directors may assign position number to each director's office, in which case directors shall thereafter be elected by position and not at large.

[Acts 1971, 62nd Leg., p. 781, ch. 84, § 1. Amended by Acts 1973, 63rd Leg., p. 1540, ch. 559, § 4, eff. June 15, 1973; Acts 1975, 64th Leg., p. 263, ch. 109, § 1, eff. Sept. 1, 1975; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1983, 68th Leg., p. 1105, ch. 250, § 1, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 521, ch. 951, § 6, eff. Jan. 1, 1984.]

Section 15 of Acts 1983, 68th Leg., p. 4005, ch. 951, provides: "Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 54.104. Application to Get on Ballot

Except for the first elected board of directors, any candidate for the office of director shall file with the secretary of the board of directors or any agent who may be designated by the board his application to have his name printed on the ballot. An application shall be signed by a candidate, or by 10 qualified voters, and shall be filed at least 30 days before the election.

[Acts 1971, 62nd Leg., p. 782, ch. 84, § 1.]

§ 54.105. Vacancies on the Board

A vacancy in the office of director or any office on the board shall be filled by appointment of the board for the unexpired term. If at any time the number of qualified directors shall be less than three because of the failure or refusal of one or more directors to qualify or serve, because of death or incapacitation, or for any other reason, then the commission shall, upon the petition of any landowner in the district, appoint the necessary number of directors to fill all vacancies on the board.

[Acts 1971, 62nd Leg., p. 782, ch. 84, § 1.]

§ 54.106. Organization of Board; Election of Officers

After the directors elected at each election have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice president, a secretary, and any other officers as in the judgment of the board are considered necessary.

[Acts 1971, 62nd Leg., p. 782, ch. 84, § 1.]

§ 54.107. Quorum; Officers' Duties

(a) Three directors shall constitute a quorum and a concurrence of three shall be sufficient in all matters pertaining to the business of the district.

(b) The president shall preside at all meetings of the board and shall be the chief executive officer of the district. The vice president shall act as president in case of the absence or disability of the president.

(c) The secretary shall act as president if both the president and vice president are absent or disabled. The secretary shall act as secretary of the board of directors and shall be charged with the duty of seeing that all records and books of the district are properly kept.

(d) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary and any such person shall be entitled to certify as to the authenticity of any record of the district, including all proceedings relating to bonds, contracts, or indebtedness of the district.

[Acts 1971, 62nd Leg., p. 782, ch. 84, § 1.]

§ 54.108. Bylaws

The board is empowered to adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees;
- (5) the keeping of records and accounts; and
- (6) other matters as the board considers appropriate.

[Acts 1971, 62nd Leg., p. 782, ch. 84, § 1.]

§ 54.109. Meetings and Notice

(a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires. The board shall hold its meetings within the district unless the board, by a majority vote at a public meeting, votes to hold the meetings outside the district.

(b) Notice of the time, place, and purpose of any meeting of the board shall be given by posting at a place convenient to the public within the district. A copy of the notice shall be furnished to the clerk or clerks of the county or counties in which the district is located, who shall post them on a bulletin board in the county courthouse used for such purpose. The notice of a meeting shall be posted for at least three days before a meeting, unless there is an emergency or urgent public necessity, in which case no posting of notice shall be required.

(c) Failure to post notice shall not affect the validity of any action taken at a regular meeting of the board of directors, but may affect the validity of action taken at a special meeting unless the board

of directors declares in action taken at that special meeting that an emergency existed.

(d) Except as herein provided the provisions of Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), shall be applicable to meetings of the board of directors. Any interested person may attend any meeting of the board.

[Acts 1971, 62nd Leg., p. 782, ch. 84, § 1; Acts 1973, 63rd Leg., p. 619, ch. 263, § 5, eff. Aug. 27, 1973.]

§ 54.110. District Office and Meeting Place

(a) After at least 25 qualified electors are residing in a district, the board shall designate, and establish a district office within the district and on majority vote of the board at a public meeting, the district may maintain an office outside the district. The meeting place may be a private residence or office provided that the board of directors in its order establishing the meeting place declares the same to be a public place and invites the public to attend any meeting of the board.

(b) After at least 25 qualified electors are residing in a district, on written request of at least five of these electors, the board shall designate a meeting place within the district. On the failure to designate the location of the meeting place within the district, five electors may petition the commission to designate a location, which may be changed by the board after the next election of members to the board.

(c) If the board of directors establishes a meeting place outside the district, it shall give notice of its location by filing a true copy of the resolution establishing the location of the district office with the commission and also by publishing notice of the location in a newspaper of general circulation in the county or counties in which the district is located. If the location of the meeting place outside the district is changed, notice of the change shall be given in the same manner.

[Acts 1971, 62nd Leg., p. 783, ch. 84, § 1; Acts 1973, 63rd Leg., p. 619, ch. 263, § 4, eff. Aug. 27, 1973.]

§ 54.111. Management of District

(a) The board of directors shall have control over and management of all the affairs of the district and shall employ all persons, firms, partnerships, or corporations deemed necessary by the board for the conduct of the affairs of the district, including, but not limited to, engineers, attorneys, financial advisors, a general manager, a utility operator, bookkeepers, auditors, and secretaries.

(b) The board of directors shall determine the term of office and the compensation of all employees and consultants by contracts or by resolution of the board.

(c) All employees may be removed by the board.

(d) The board of directors may require a bond of any officer or employee payable to the district and

conditioned on the faithful performance of his duties.

[Acts 1971, 62nd Leg., p. 783, ch. 84, § 1.]

§ 54.112. Supplies

The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district.

[Acts 1971, 62nd Leg., p. 783, ch. 84, § 1.]

§ 54.113. Seal

The directors shall adopt a seal for the district.

[Acts 1971, 62nd Leg., p. 783, ch. 84, § 1.]

§ 54.114. Fees of Office

(a) The directors are entitled to receive as fees of office not more than \$50 a day for each day of service necessary to discharge their duties. The fees shall not exceed the sum of \$200 in any one month regardless of the number of days of necessary service during that month.

(b) Upon approval by the board, a director may be reimbursed for travel or other expenses incurred on behalf of the district upon presentation of a verified statement.

[Acts 1971, 62nd Leg., p. 784, ch. 84, § 1. Amended by Acts 1983, 68th Leg., p. 643, ch. 144, § 3, eff. May 17, 1983.]

§ 54.115. General Manager

A director may be employed as general manager of the district at the compensation fixed by the other four directors, and when so employed, he shall continue to perform the duties of a director.

[Acts 1971, 62nd Leg., p. 784, ch. 84, § 1.]

§ 54.116. Bond and Oath of Office

(a) As soon as practicable after a director is elected or appointed he shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of his duties. In the event any temporary director is elected at the first director's election, he shall be confirmed as a director without the necessity of executing a new bond.

(b) All bonds of the directors, including the bonds of the temporary directors, shall be approved by the board.

(c) Each director shall take the oath of office prescribed by the Constitution for public officers.

(d) The bond and oath shall be filed with the district and retained in its records.

[Acts 1971, 62nd Leg., p. 784, ch. 84, § 1.]

§ 54.117. Records

(a) All original minutes and orders of the board of directors, all construction contracts and all related instruments, all bonds of the district's board of directors, and all bonds of the district's officers and

employees shall be kept in a safe place and maintained as permanent records of the district.

(b) No minutes or orders of the board of directors shall be destroyed.

(c) Ad valorem tax records shall be maintained at the office of the tax assessor and collector and all records necessary for the district's annual audits and necessary to comply with the terms of its bond orders or resolutions shall be retained for at least one full year after the expiration of the preceding fiscal year. District contracts other than construction contracts, and the records relating to them shall be retained for at least four years after the performance thereof.

(d) Except for the foregoing, a district's records may be destroyed when the board determines that they are no longer needed or useful. As to any district records destroyed, the board shall designate the person or persons to destroy them and the manner of the destruction. If the board considers it advisable, it may have any instruments to be first inventoried or microfilmed before they are destroyed.

[Acts 1971, 62nd Leg., p. 784, ch. 84, § 1.]

§ 54.118. Director Interested in Contract

(a) A director who is financially interested in any contract with the district or a director who is an employee of a person who or firm which is financially interested in any contract with the district shall disclose that fact to the other directors, and the disclosure shall be entered into the minutes of the meeting.

(b) An interested director may not vote on the acceptance of the contract or participate in the discussion on the contract.

(c) The failure of a director to disclose his financial interest and to have it entered on the minutes shall invalidate the contract.

[Acts 1971, 62nd Leg., p. 784, ch. 84, § 1.]

§ 54.119. Suits

(a) All districts created under this chapter shall be governmental agencies and bodies politic and corporate and are declared to be defined districts within the meaning of Article XVI, Section 59, of the Texas Constitution, and may, through their directors, sue and be sued in any and all courts of this state in the name of the district. Service of process in any suit may be had by serving any two directors.

(b) All courts of this state shall take judicial notice of the establishment of any districts.

[Acts 1971, 62nd Leg., p. 785, ch. 84, § 1.]

§ 54.120. Contracts

A district shall contract and be contracted with in the name of the district.

[Acts 1971, 62nd Leg., p. 785, ch. 84, § 1.]

§ 54.121. Payment of Judgment

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

[Acts 1971, 62nd Leg., p. 785, ch. 84, § 1.]

§ 54.122. Elections

Unless otherwise provided, notice of all elections ordered by the board shall be given by publication once a week for two consecutive weeks with the first publication in a newspaper with general circulation in the county or counties in which a district may be located for at least 14 days before the election. The clerk or clerks for absentee voting need not be a resident or qualified voter in the district.

[Acts 1971, 62nd Leg., p. 785, ch. 84, § 1.]

§ 54.123. Tax Assessor-Collector; Deputies

(a) The board shall appoint a person to the office of tax assessor and collector and may appoint deputy tax assessors and collectors as considered necessary.

(b), (c) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.

(d) Compensation shall be fixed by the board.

(e) The board may require the assessor and collector or any deputy to perform duties other than assessing property and collecting taxes.

[Acts 1971, 62nd Leg., p. 785, ch. 84, § 1. Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.]

§ 54.1231. Disqualification of Tax Assessor and Collector

(a) No person may serve as tax assessor and collector of a district if:

(1) he is related within the third degree of affinity or consanguinity to any developer in the district, a member of the board or the manager, engineer, or attorney for the district;

(2) he is or was within two years immediately preceding the assumption of his assessment and collection duties with the district an employee of any developer of property in the district or any director, manager, engineer, or attorney for the district;

(3) he owns an interest in or is employed by any corporation organized for the purpose of tax assessment and collection services, a substantial portion of the stock of which is owned by a developer of property within the district, any director, manager, engineer, or attorney for the district; or

(4) he is himself or through a corporation developing land in the district, or is a director, engineer or attorney for the district.

(b) Within 60 days after the board determines a relationship or employment which constitutes a dis-

qualification under Subsection (a) of this section, it shall replace the person serving as tax assessor and collector with a person who would not be disqualified.

(c) Any person who wilfully violates the provisions of Subsection (a) of this section is guilty of a misdemeanor, and on conviction shall be fined not less than \$100 nor more than \$1,000.

(d) As used in this section, "developer of property in the district" means any person who owns land located within a district covered under this section and who has divided or proposes to divide the land into two or more parts for the purpose of laying out any subdivision or any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys, or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto.

[Acts 1973, 63rd Leg., p. 1538, ch. 558, § 4, eff. June 15, 1973.]

§ 54.124. Dual Elections

(a) If the board of a district is uncertain about the proper class of voters to vote in an election on one or more propositions authorizing the issuance of bonds or otherwise lending the credit of the district, or spending money, or assuming any debt, the board may elect to call two simultaneous elections and submit the proposition or propositions to both the qualified electors of the district and to the duly qualified property taxpaying electors of the district.

(b) If the board submits the proposition or propositions in two separate simultaneous elections, the board may require that the votes of the qualified property taxpaying electors be cast separately from all other qualified electors of the district.

(c) In the event the board calls two separate simultaneous elections, the results of the election shall be canvassed in a manner which will show the results of the votes by the qualified property taxpaying electors, the results of the votes by all other qualified electors of the district, and the results of the votes by all qualified electors in the district including the qualified property taxpaying electors.

[Acts 1971, 62nd Leg., p. 785, ch. 84, § 1.]

§ 54.125. Employee Benefits

(a) The board may provide for and administer a retirement, disability, and death compensation fund for the officers and employees of the district, and may adopt a plan or plans to effectuate the purpose of this section, including the forms of insurance and annuities which are considered advisable by the board. The board, after notice to the employees and a hearing, may change any plan, rule, or regulation.

(b) All money provided from the compensation of the officers and employees participating in the fund and plan authorized by this section and by the

district for the retirement, disability, and death compensation fund after the money has been received by the district shall be invested as the board from time to time considers advisable. The money may be invested in the following manner:

(1) in bonds of the United States, the State of Texas, any county, city, or other political subdivision of this state, or in bonds issued by any agency of the United States, the payment of the principal and interest on which is guaranteed by the United States; and

(2) in life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance companies authorized to write the contracts in the State of Texas.

(c) A sufficient amount of the money shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of the fund as determined by the board.

(d) The recipients or beneficiaries from the fund shall not be eligible for any other pension, retirement fund, or direct aid from the State of Texas, unless the fund created under this Chapter is released to the State of Texas as a condition precedent to receiving the other pension, aid, or joining of any other system.

(e) The board may include hospitalization and medical benefits to their officers and employees as part of the compensation currently paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

[Acts 1971, 62nd Leg., p. 786, ch. 84, § 1.]

§ 54.126. Workmen's Compensation

The board may also become a subscriber under the Texas Workmen's Compensation Act with any old line legal reserve insurance company authorized to write the policies in the State of Texas.

[Acts 1971, 62nd Leg., p. 786, ch. 84, § 1.]

[Sections 54.127 to 54.200 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 54.201. Powers

(a) A district shall have the functions, powers, authority, rights, and duties which will permit accomplishment of the purposes for which it was created.

(b) A district is authorized to purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any and all works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes of its creation, including all works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:

(1) supply water for municipal uses, domestic uses, power, and commercial purposes and all other beneficial uses or controls;

(2) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state;

(3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in a district;

(4) irrigate the land in a district;

(5) alter land elevation in a district where it is needed;

(6) navigate coastal and inland waters of the district; and

(7) provide parks and recreational facilities for the inhabitants in the district.

[Acts 1971, 62nd Leg., p. 786, ch. 84, § 1.]

§ 54.202. Acquisition of Existing Facilities

If a district acquires existing works, improvements, facilities, plants, equipment, and appliances which are completed or partially created or under construction, a district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

[Acts 1971, 62nd Leg., p. 787, ch. 84, § 1.]

§ 54.203. Solid Waste

A district may purchase, construct, acquire, own, operate, maintain, repair, improve, and extend a solid waste collection and disposal system inside and outside the district and make proper charges for it.

[Acts 1971, 62nd Leg., p. 787, ch. 84, § 1.]

§ 54.204. Fees and Charges

(a) A district may adopt and enforce all necessary charges, fees, including standby charges or rentals, in addition to taxes, for providing any district facilities or service.

(b) A district may require a deposit for any service or facilities furnished and the district may or may not provide that the deposit will bear interest.

(c) A district may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due the district including taxes which have been due for not less than six months.

[Acts 1971, 62nd Leg., p. 787, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 3156, ch. 828, § 7, eff. June 17, 1981.]

§ 54.2041. Prohibited Charges and Fees

(a) In this section, "undeveloped property" means property within the district to which water or sewer services are actually available and to which no water or sewer connections have been made.

(b) Except as provided in Subsection (c) of this section, no district in which the ratio of the assessed valuation of property to the amount of bonded indebtedness of the district is at least 15 to 1 may adopt and impose on the owners of undeveloped property in the district a charge or fee on the undeveloped property that is in addition to taxes levied by the district on that property.

(c) If the board of directors of a district covered by this section desires to adopt and impose a charge or fee prohibited by Subsection (b) of this section, it shall submit to the commission a petition for authority to adopt and impose the charge or fee. If the commission finds that it will be in the best interest of the district and property owners of the district, the commission shall approve the adoption and imposition of the charge or fee for a period of not more than three years. The imposition of a charge or fee may be renewed for additional periods of three years in the manner provided in this section for initial approval of the charge or fee.

[Acts 1979, 66th Leg., p. 437, ch. 198, § 1, eff. Jan. 1, 1980.]

Section 2 of the 1979 Act provided:

"This Act shall not apply to districts which do not as a principal function provide water and sewer services or either of these services to household users."

§ 54.205. Adopting Rules and Regulations

A district may adopt and enforce reasonable rules and regulations to:

(1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;

(2) preserve the sanitary condition of all water controlled by the district;

(3) prevent waste or the unauthorized use of water controlled by the district;

(4) regulate privileges on any land or any easement owned or controlled by the district; and

(5) provide and regulate a safe and adequate freshwater distribution system.

[Acts 1971, 62nd Leg., p. 787, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 3150, ch. 828, § 1, eff. June 17, 1981.]

§ 54.206. Effect of Rules

After the required publication, rules adopted by the district under Section 54.205 of this code shall be recognized by the courts as if they were penal ordinances of a city.

[Acts 1971, 62nd Leg., p. 787, ch. 84, § 1.]

§ 54.207. Publication of Rules

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the district is located.

(b) The substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by the rules.

(c) The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules are on file in the principal office of the district where they may be read by any interested person.

(d) Any number of rules may be included in one notice.

[Acts 1971, 62nd Leg., p. 787, ch. 84, § 1.]

§ 54.208. Effective Date of Rules

The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rule shall be in effect and ignorance of it is not a defense to a prosecution for the enforcement of the penalty.

[Acts 1971, 62nd Leg., p. 788, ch. 84, § 1.]

§ 54.209. Penalties For Violation of Rule

(a) The board may set reasonable penalties for the breach of any rule of the district, which shall not exceed fines of more than \$200 or imprisonment for more than 30 days or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

[Acts 1971, 62nd Leg., p. 788, ch. 84, § 1.]

§ 54.210. Enforcement by Peace Officers

A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; and

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

[Acts 1971, 62nd Leg., p. 788, ch. 84, § 1.]

§ 54.211. Acquisition of Land

(a) A district may acquire land, materials, waste grounds, easements, rights-of-way, and everything considered necessary for the purpose of accomplishing any one or more of the purposes provided in this chapter.

(b) A district shall have the right to acquire property by gift, grant, or purchase and the right to acquire property shall include property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the

plants, works, improvements, facilities, equipment, or appliances of a district.

(c) A district may acquire either the fee simple title to or an easement on all land, both public and private, either inside or outside the boundaries and may acquire the title to or an easement on property other than land held in fee.

(d) A district may also lease property on such terms and conditions as the board may determine to be advantageous to the district.

[Acts 1971, 62nd Leg., p. 788, ch. 84, § 1.]

§ 54.212. Eminent Domain

(a) A district may acquire any land, easements, or other property inside the district or within five miles of the district solely for sewer, water, storm drainage, and flood drainage connections when necessary by condemnation, and may elect to condemn either the fee simple title or an easement only.

(b) The right of eminent domain shall be exercised in the manner provided in Title 52, Revised Civil Statutes of Texas, 1925, as amended, except that a district shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit double the amount of any award in any suit.

(c) The proceedings shall be instituted under the direction of the board and in the name of the district.

[Acts 1971, 62nd Leg., p. 788, ch. 84, § 1.]

§ 54.213. Costs of Relocation of Property

In the event that the district, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the district.

[Acts 1971, 62nd Leg., p. 789, ch. 84, § 1.]

§ 54.214. Sale of Surplus Land

Any property or land owned by the district which may be found to be surplus and not needed by the district may be sold under order of the board either by public or private sale or the property may be exchanged for other property.

[Acts 1971, 62nd Leg., p. 789, ch. 84, § 1.]

§ 54.215. Leases

A district may lease to any person all or any part of any facilities constructed or acquired or to be constructed or acquired by it. The lease may contain the terms and provisions which the board deter-

mines to be advantageous to the district. The term of any lease shall not exceed 40 years from its date.

[Acts 1971, 62nd Leg., p. 789, ch. 84, § 1.]

§ 54.216. Right to Enter Land

The directors, engineers, and employees of a district may go on any land inside or outside the district to make surveys and examine the land with reference to the location of works, improvements, plants, facilities, equipment, or appliances and to attend to any business of the district; provided that two weeks' notice be given to all landowners involved and that if any activities cause damage to the land or property, the land or property shall be restored as nearly as possible to the original state. The cost of restoration shall be borne by the district.

[Acts 1971, 62nd Leg., p. 789, ch. 84, § 1.]

§ 54.217. Right to Use Road Right-of-Way

All districts are given right-of-way along and across all public, state, or county roads or highways, but they shall restore the roads crossed to their previous condition of use, as nearly as possible at the sole expense to the district.

[Acts 1971, 62nd Leg., p. 789, ch. 84, § 1.]

§ 54.218. Contracts

(a) A district may contract with a person for the joint ownership and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function permitted by a district, or a district may purchase an interest in any project used for any purpose or function permitted by a district.

(b) A district may enter into contracts with any person in the performance of any purpose or function permitted by a district.

(c) Without limiting the generality of the foregoing, a district may enter into contracts of not exceeding 40 years with persons on the terms and conditions the board may consider desirable, fair, and advantageous for:

- (1) the purchase and sale of water, or either;
- (2) the collection, transportation, treatment, and disposal of its domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;
- (3) the gathering, diverting, and control of local storm water, or other local harmful excesses of water;
- (4) the continuing and orderly development of the land and property within the district through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, and appliances which the district may otherwise be empowered and authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and eco-

nomical practices, all of the land and property may be placed in a position to ultimately receive the services of the works, improvements, plants, facilities, equipment, and appliances;

(5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person;

(6) the collection, treatment, and disposal of solid wastes collected inside or outside the district; and

(7) the exercise of any other rights, powers, and duties granted to a district.

[Acts 1971, 62nd Leg., p. 789, ch. 84, § 1.]

§ 54.219. Source of Contractual Payments

(a) A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds, from taxes, or from any other income of the district or any combination of these.

(b) A district may make payments under a contract from taxes other than maintenance taxes, after the provisions of the contract have been approved by a majority of the electors voting at an election held for that purpose.

(c) Any contract election may be held at the same time and in conjunction with an election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(d) If the contract is approved, it will constitute an obligation against the taxing power of the district to the extent provided in the contract.

[Acts 1971, 62nd Leg., p. 790, ch. 84, § 1.]

§ 54.220. Contracts For Materials, Machinery, Construction, Etc., For More Than \$25,000

(a) The board shall advertise a contract for more than \$25,000 for the purchase of materials, machinery, and all things to constitute the works, improvements, facilities, plants, equipment, and appliances of the district or for construction.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which part of the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks before the date that the bids are opened, and the first publica-

tion shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the improvements will be constructed in stages over a period of years.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers or a contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plant, improvements, facilities, works, equipment, and appliances.

[Acts 1971, 62nd Leg., p. 790, ch. 84, § 1.]

§ 54.221. **Repealed by by Acts 1981, 67th Leg., p. 3158, ch. 828, § 10, eff. June 17, 1981**

§ 54.222. **Construction Bids**

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond which accompanied his bid.

(d) The district may specify reasonable additional requirements.

[Acts 1971, 62nd Leg., p. 791, ch. 84, § 1.]

§ 54.223. **Reports Furnished to Prospective Bidders**

The board shall furnish to any person who desires to bid on construction work, and who makes a request in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

[Acts 1971, 62nd Leg., p. 791, ch. 84, § 1.]

§ 54.224. **Provisions of Contracts For Construction Work**

(a) Any contract made by the board for construction work shall conform to the provisions of this subchapter, and the provisions of this subchapter

will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

[Acts 1971, 62nd Leg., p. 791, ch. 84, § 1.]

§ 54.225. **Executing and Recording Construction Contract**

(a) Contracts for construction work shall be in writing and signed by an authorized representative of the district and the contractor.

(b) The contract shall be kept in the district's records and be available for public inspection.

[Acts 1971, 62nd Leg., p. 791, ch. 84, § 1.]

§ 54.226. **Contractor's Bond**

Any person, firm, partnership, or corporation to whom a contract is let must give good and sufficient performance and payment bonds in accordance with Article 5160, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1971, 62nd Leg., p. 791, ch. 84, § 1.]

§ 54.227. **Inspection of and Reports on Construction Work**

(a) The board shall have control of construction work being done for the district under contract to determine whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer or his assistants.

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report including as-built plans of the facilities showing whether or not the contractor has fully complied with the contract.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1.]

§ 54.2271. **County Standards**

Construction work of a district located wholly or partly outside the extraterritorial jurisdiction of a city shall meet standards established by the commissioners court of the county in which the district is located to protect local drainage and to prevent flooding in flood-prone areas.

[Acts 1975, 64th Leg., p. 1294, ch. 485, § 2, eff. Sept. 1, 1975.]

§ 54.228. Payment For Construction Work

(a) The district shall pay the contract price of construction contracts only as provided in this section.

(b) The district will make progress payments under construction contracts monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer.

(c) If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the district engineer may authorize material delivered on the site and preparatory work done to be considered if the consideration is specifically authorized by the contract and if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by the contract.

(d) In making progress payments, 10 percent of the estimated amount shall be retained until final completion and acceptance of the contract work. However, if the board, at any time after 50 percent of the work has been completed, finds that satisfactory progress is being made, it may authorize any of the remaining progress payments to be made in full. Also, if the work is substantially complete, the board, if it finds the amount retained to be in excess of the amount adequate for the protection of the district, at its discretion may release to the contractor all or a portion of the excess amount. The district is not obligated to pay interest on amounts retained except as provided herein. The district shall not be obligated to pay any interest on the 10 percent retainage held on the first 50 percent of work completed. If the district holds any retainage on the remaining 50 percent of the work completed, the district shall pay interest on such retainage from the date the retainage is withheld to the date of payment to the contractor. The interest rate to be paid on such retainage shall be the rate of interest paid by the district's depository bank on interest bearing accounts of similar amounts during the period of time interest accrues as provided herein.

(e) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

(f) When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository to pay any balance due on the contract.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1; Amended by Acts 1979, 66th Leg., p. 1801, ch. 733, § 1, eff. Aug. 27, 1979; Acts 1983, 68th Leg., p. 3440, ch. 573, § 1, eff. Aug. 29, 1983.]

§ 54.229. Contracts For Materials, Machinery, and Construction of More Than \$5,000 But Less Than \$25,000

If the estimated amount of the proposed contracts for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials or supplies is more than \$5,000 but less than \$25,000, or for a duration of more than two years, competitive bids on uniform written specifications shall be asked from at least three bidders. Contracts shall be written and shall be awarded to the lowest and best bidder.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1.]

§ 54.230. Contracts With Governmental Agencies

The provisions of this subchapter shall not prohibit a district from purchasing property from public agencies by negotiated contract or without the necessity of advertising for bids.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1.]

§ 54.231. Personal or Professional Services Contracts

The provisions of this subchapter shall not apply to contracts for personal or professional services or for a utility service operator.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1.]

§ 54.232. Grants and Gifts

A district may accept grants, gratuities, advances, and loans in any form from any source approved by the board, including the United States, the state or any of its agencies, any private or public corporation, and any other person and to make and enter into contracts, agreements, and covenants which the board considers appropriate in connection with acceptance of grants, gratuities, advances, and loans.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1.]

§ 54.233. Area-Wide Waste Treatment

The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated area-wide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state, it being an objective of the policy to avoid the economic burden to the people and the impact on the quality of the water in the state which result from the construction and operation of numerous small waste collection, treatment, and disposal facilities to serve an area when an integrated area-wide waste collection, treatment, and disposal system for the area can be reasonably provided.

[Acts 1971, 62nd Leg., p. 792, ch. 84, § 1.]

[Sections 54.234 to 54.300 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL
PROVISIONS

§ 54.301. Expenditures

A district's money may be disbursed only by check, draft, order, or other instrument which shall be signed by at least three directors. The general manager, treasurer, or other employee of the district when authorized by resolution of the board may sign checks, drafts, orders, or other instruments on any district operation account and these need not be signed by anyone else.

[Acts 1971, 62nd Leg., p. 793, ch. 84, § 1.]

§ 54.302. Purposes For Borrowing Money

The district may borrow money for any corporate purpose or combination of corporate purposes.

[Acts 1971, 62nd Leg., p. 793, ch. 84, § 1.]

§ 54.303. Revenue Notes

(a) The board, without the necessity of an election, may borrow money on negotiable notes of the district to mature over a term of not more than 20 years and to bear interest at a rate not more than 10 percent a year to be paid solely from the revenues derived from the ownership of all or any designated part of the district's works, plant, improvements, facilities, or equipment after deduction of the reasonable cost of maintaining and operating the facilities.

(b) The notes may be first or subordinate lien notes within the discretion of the board, but no obligation may ever be a charge on the property of the district or on taxes levied or collected by the district but shall be solely a charge on the revenues pledged for the payment of the obligation. No part of the obligation may ever be paid from taxes levied or collected by the district.

[Acts 1971, 62nd Leg., p. 793, ch. 84, § 1.]

§ 54.304. Bond Anticipation Notes; Tax Anticipation Notes

(a) The board may declare an emergency in the matter of funds not being available to pay principal of and interest on any bonds of the district payable in whole or in part from taxes or to meet any other needs of the district and may issue negotiable tax anticipation notes or negotiable bond anticipation notes to borrow the money needed by the district. Bond anticipation notes and tax anticipation notes may bear interest at any rate or rates not to exceed 10 percent and shall mature within one year of their date.

(b) Tax anticipation notes may be issued for any purpose for which the district is authorized to levy taxes, and tax anticipation notes shall be secured with the proceeds of taxes to be levied by the district in the succeeding 12-month period. The board may covenant with the purchasers of the

notes that the board will levy a sufficient tax in the following October to pay principal of and interest on the notes and pay the costs of collecting the taxes.

(c) Bond anticipation notes may be issued for any purpose for which bonds of the district may have previously been voted or may be issued for the purpose of refunding previously issued bond anticipation notes. A district may covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of sale of any bonds in the process of issuance for the purpose of refunding the bond anticipation notes, in which case the board will be required to use the proceeds received from sale of the bonds in the process of issuance to pay principal, interest, or redemption price on the bond anticipation notes.

[Acts 1971, 62nd Leg., p. 793, ch. 84, § 1.]

§ 54.305. Repayment of Organizational Expenses

The district's directors are authorized to pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, legal fees, and other incidental expenses, and to reimburse any person for money advanced for these purposes. These payments may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district or out of maintenance taxes or other revenues of the district.

[Acts 1971, 62nd Leg., p. 794, ch. 84, § 1.]

§ 54.306. Premium on Directors or Employees Bonds

The board may pay the premium on surety bonds required of officials or employees of the district out of any available funds of the district including proceeds from the sale of bonds.

[Acts 1971, 62nd Leg., p. 794, ch. 84, § 1.]

§ 54.307. Depository

(a) The board, by order or resolution, shall designate one or more banks inside or outside the district to serve as the depository for the funds of the district. All funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds.

(b) To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

(c) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

[Acts 1971, 62nd Leg., p. 794, ch. 84, § 1.]

§ 54.308. Investments

(a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state. Funds of the district may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas.

(b) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on such terms as the board considers advisable.

[Acts 1971, 62nd Leg., p. 794, ch. 84, § 1.]

§ 54.309. Repealed by Acts 1981, 67th Leg., p. 986, ch. 367, § 46, eff. June 10, 1981; Acts 1981, 67th Leg., p. 3158, ch. 828, § 10, eff. June 17, 1981

§ 54.310. Paid Bonds, Coupons, Etc.

All district bonds and interest coupons or notes when paid shall be delivered to the district or destroyed and evidence of the destruction furnished the board.

[Acts 1971, 62nd Leg., p. 795, ch. 84, § 1.]

§ 54.311. Maintenance Tax

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, works, facilities, improvements, appliances, and equipment of the district and for paying costs of proper services, engineering, and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose.

[Acts 1971, 62nd Leg., p. 795, ch. 84, § 1.]

§ 54.312. Maintenance Tax Election

The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

[Acts 1971, 62nd Leg., p. 795, ch. 84, § 1.]

[Sections 54.313 to 54.500 reserved for expansion]

SUBCHAPTER F. ISSUANCE OF BONDS

§ 54.501. Issuance of Bonds

The district may issue its bonds for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any dis-

trict works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes set forth in Section 54.012 of this code for which a district shall be created, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, solid waste disposal system, or to provide parks and recreation facilities.

[Acts 1971, 62nd Leg., p. 795, ch. 84, § 1.]

§ 54.502. Form of Bonds

(a) A district may issue its bonds in various series or issues.

(b) Bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the Constitution and laws of the state, all as shall be determined by the board.

(c) A district's bonds and interest coupons, if any, shall be investment securities under the terms of Chapter 8 of the Business & Commerce Code and may be issued registrable as to principal or as to both principal and interest and shall or may be made redeemable before maturity, at the option of the district or may contain a mandatory redemption provision all as may be provided by the board. A district's bonds may be issued in the form, denominations, and manner and under the terms, conditions, and details, and shall be signed and executed, as provided by the board in the resolution or order authorizing their issuance.

[Acts 1971, 62nd Leg., p. 795, ch. 84, § 1.]

§ 54.503. Manner of Repayment of Bonds

The board may provide for the payment of principal of and interest and redemption price on the bonds in any one of the following manners:

- (1) from the levy and collection of ad valorem taxes on all taxable property within the district;
- (2) by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines;
- (3) a combination of the sources set forth in Subdivisions (1) and (2) of this section.

[Acts 1971, 62nd Leg., p. 795, ch. 84, § 1.]

§ 54.504. Additional Security For Bonds

(a) The bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district, and franchises, easements, water rights, and appropriation permits, leases, and contracts and all rights appurtenant to such properties; vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate

the properties, and all other powers and authority necessary for the further security of the bonds.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, and may make provisions for amendment or modification, and may condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided in the trust indenture and may make provisions for investment of funds of the district.

(c) Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities, and rights purchased and shall have the right to maintain and operate them.

[Acts 1971, 62nd Leg., p. 796, ch. 84, § 1.]

§ 54.505. Election on Tax Bonds

Bonds payable solely from revenues may be issued by resolution or order of the board, but no bonds, except refunding bonds, payable wholly or partially from ad valorem taxes shall be issued until authorized by a majority vote of the resident electors of the district voting in an election called and held for that purpose.

[Acts 1971, 62nd Leg., p. 796, ch. 84, § 1.]

§ 54.506. Engineer's Report

Before an election is held to authorize the issuance of bonds, there shall be filed in the office of the district and open to inspection by the public an engineer's report covering the plant, improvements, facilities, plants, equipment, and appliances to be purchased or constructed and their estimated cost, together with maps, plats, profiles, and data fully showing and explaining the report.

[Acts 1971, 62nd Leg., p. 796, ch. 84, § 1.]

§ 54.507. Notice of Bond Election

(a) Notice of a bond election shall be given as provided for confirmation elections and the notice shall contain the proposition or propositions to be voted upon, with an estimate of the probable cost of construction and incidental expenses connected with construction and an estimate of the cost of the purchase of improvements, if any, or the purchase of the improvements and the construction of additions to the improvements.

(b) All or any part of any facilities or improvements which may be acquired by a district by the issuance of its bonds may be included in one single proposition to be voted on at the election or the bonds may be submitted in several propositions. A bond election may also be held on the same day as the confirmation election. The bond election may be called by a separate election order or as a part of the order calling the confirmation election.

(c) If a majority of the votes cast at the election are in favor of the issuance of the bonds, the bonds may be issued by the board if the confirmation election results favorably to the confirmation of the district.

[Acts 1971, 62nd Leg., p. 796, ch. 84, § 1.]

§ 54.508. Form of Ballots

(a) At any election to authorize bonds payable wholly from ad valorem taxes, in addition to the requirements of the Texas Election Code, the ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of taxes in payment of the bonds."

(b) At any election to authorize bonds payable from both ad valorem taxes and revenues, the ballots shall be printed to provide for voting for or against: "The issuance of bonds and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the bonds."

[Acts 1971, 62nd Leg., p. 797, ch. 84, § 1.]

§ 54.509. Absentee Voting

Absentee balloting in bond elections shall not commence until 10 days before the election.

[Acts 1971, 62nd Leg., p. 797, ch. 84, § 1.]

§ 54.510. Provisions of Bonds

(a) In the orders or resolutions authorizing the issuance of bonds, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those works, improvements, plants, facilities, equipment, and appliances the revenue of which is pledged, including provisions for the operation or for the leasing of all or any part of the improvements and the use or pledge of money derived from the operation contracts and leases, as the board may consider appropriate.

(b) The orders or resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions which may be set forth in the orders or resolutions.

(c) The orders or resolutions of the board issuing bonds may contain other provisions and covenants as the board may determine, not prohibited by the Constitution or by this chapter.

(d) The board may adopt and cause to be executed any other proceedings or instruments necessary and convenient in the issuance of bonds.

[Acts 1971, 62nd Leg., p. 797, ch. 84, § 1.]

§ 54.511. Use of Bond Proceeds

The district may use bond proceeds to pay interest, administrative and operating expenses expected to accrue during the period of construction which shall not be more than three years as may be provided in the bond orders or resolutions, and to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

[Acts 1971, 62nd Leg., p. 797, ch. 84, § 1.]

§ 54.512. Sale or Exchange of Bonds

(a) The board shall sell the bonds on the best terms and for the best possible price but none of the bonds may be sold for less than 95 percent of face value.

(b) The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or services performed for the use and benefit of the district.

[Acts 1971, 62nd Leg., p. 797, ch. 84, § 1.]

§ 54.5121. Notice of Bond Sale

(a) Except for refunding bonds, bonds sold to a state or federal agency, and bonds registered with any federal agency, after any bonds are finally approved and before they are sold by a district, the board shall publish an appropriate notice of the sale:

(1) at least one time not less than 10 days before the date of sale in a newspaper of general circulation which is published in the county or counties in which the district is located; and

(2) at least one time in one or more recognized financial publications of general circulation in the state as approved by the attorney general.

(b) If a newspaper publication required by Subdivision (1), Subsection (a), of this section is not published in the county, then notice may be published in any newspaper of general circulation in such county.

[Acts 1973, 63rd Leg., p. 616, ch. 262, § 4, eff. Aug. 27, 1973.]

§ 54.513. Approval by Attorney General; Registration by Comptroller

(a) All bonds issued by a district shall be submitted to the Attorney General of the State of Texas for examination.

(b) If he finds that the bonds have been authorized in accordance with law, he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas.

(c) After the approval and registration of bonds by the comptroller they shall be incontestable in any court or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

(d) When any bonds payable from net revenue recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or a lease

made between the district and another party or parties, a copy of the contract or lease and the proceedings authorizing the contract or lease may or may not be submitted to the attorney general along with the bond records, and if submitted, the approval by the attorney general of the bonds shall constitute an approval of the contract or lease, and the contract or lease shall be incontestable.

[Acts 1971, 62nd Leg., p. 797, ch. 84, § 1.]

§ 54.514. Refunding Bonds

(a) A district may issue bonds to refund all or any part of its outstanding bonds, notes, or other obligations including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the Constitution and laws of the state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources.

(d) The refunding bonds shall be approved by the attorney general as in the case of other bonds and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded.

(e) The orders or resolutions authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds deposited in the place or places where the bonds being refunded are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the interest on and principal of the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, has been deposited in the place or places where the bonds being refunded are payable. The comptroller shall register them without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons shall be investment securities under the provisions of Article 8 of the Business & Commerce Code.

(g) In lieu of the method set forth in Section 54.514(a)-(f) of this code, a district may refund bonds, notes, or other obligations as provided by the general laws of the state.

[Acts 1971, 62nd Leg., p. 798, ch. 84, § 1.]

§ 54.515. Obligations, Legal Investments; Security For Funds

All bonds, notes, and other obligations issued by a district shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries,

and trustees, and for all interest and sinking funds and other public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities of the state including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. A district's bonds, notes, and other obligations shall be eligible and lawful security for all deposits of public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities of the state including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, notes, and other obligations when accompanied by any unmatured interest coupons attached to them.

[Acts 1971, 62nd Leg., p. 798, ch. 84, § 1.]

§ 54.516. Authority of Commission Over Issuance of District Bonds

(a) The commission shall investigate and report on the organization and feasibility of all districts that issue bonds, other than refunding bonds, under this chapter.

(b) Any district that desires to issue bonds under this chapter other than refunding bonds shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report which it shall file in its office and a copy of the report shall be furnished to the district.

[Acts 1971, 62nd Leg., p. 799, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 24, eff. June 10, 1981.]

§ 54.5161. Review of Bond Projects by Counties

(a) Before the commission gives final approval on any bond issue for the purpose of financing a project of a district located wholly or partly outside the extraterritorial jurisdiction of a city, the commission shall notify the county commissioners of the county in which the district is located that an application has been filed and give the county an opportunity within 30 days after notification to examine all information on file and submit a written opinion

from the commissioners court stating any findings, conclusions, or other information that the commissioners court considers important to the commission's final determination.

(b) In passing on the approval of a bond issue under this section, if a written opinion is submitted by the commissioners court, the commission shall consider the written opinion before taking final action.

[Acts 1975, 64th Leg., p. 1294, ch. 485, § 3, eff. Sept. 1, 1975.]

§ 54.517. Department Supervision of Projects and Improvements

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the department in accordance with board rules.

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications approved by the commission.

(c) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, he shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the executive director shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

[Acts 1971, 62nd Leg., p. 799, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 54.518. Mandamus by Bondholders

In addition to all other rights and remedies provided by the laws of the state, in the event the district defaults in the payment of principal, interest, or redemption price on its bonds when due, or in the event it fails to make payments into any fund or funds created in the order or resolution authorizing the issuance of the bonds, or defaults in the observation or performance of any other covenants, conditions, or obligations set forth in the resolution or order authorizing the issuance of its bonds, the owners of any of the bonds shall be entitled to a writ of mandamus issued by a court of competent jurisdiction compelling and requiring the district and its officials to observe and perform the cove-

nants, obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds.

[Acts 1971, 62nd Leg., p. 799, ch. 84, § 1.]

§ 54.519. Service to Areas Outside the District

(a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend all works, improvements, facilities, plants, equipment, and appliances necessary to provide a water system and a sewer system for areas contiguous to or in the vicinity of the district provided the district does not duplicate a service of another public agency. A district shall not provide a water or a sanitary sewer system to serve areas outside the district which is also within a city without securing a resolution or ordinance of the city granting consent for the district to serve the area within the city.

(b) To secure money for this purpose, a district is authorized to issue and sell negotiable bonds and notes which are payable from the levy and collection of ad valorem taxes on all taxable property within the district or from all or any designated part of the revenues received from the operation of the district's works, improvements, facilities, plants, equipment, and appliances or from a combination of taxes and revenues.

(c) Any bonds and notes may be issued upon the terms and conditions set forth in this chapter.

(d) A district is authorized to establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges for the use, services, and facilities of the water and sewer system which provide service to areas outside the district which are considered necessary and which may be higher than those charged for comparable service to residents within the district.

(e) The rates, fees, rentals, tolls, or other charges shall be at least sufficient to meet the expense of operating and maintaining the water and sewer system serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the system.

[Acts 1971, 62nd Leg., p. 800, ch. 84, § 1.]

§ 54.520. Cancellation of Unsold Bonds

(a) The board, by order or resolution, may provide for the cancellation of all or any part of any bonds which have been submitted to and approved by the attorney general and registered by the comptroller, but not yet sold, and provide for the issuance of new bonds in lieu of the old bonds in the manner as provided by law for the issuance of the original bonds including their approval by the attorney general and their registration by the comptroller.

(b) The order or resolution of the board shall describe the bonds to be cancelled, and shall also describe the new bonds to be issued in lieu of the old bonds.

(c) A certified copy of the order or resolution of the board providing for the cancellation of the old bonds, together with the old bonds, shall be delivered to the comptroller, who shall cancel and destroy the old bonds and make a record of the cancellation.

[Acts 1971, 62nd Leg., p. 800, ch. 84, § 1.]

§ 54.521. Use of Bond Proceeds to Pay Certain Interest

The district may use bond proceeds to pay or to establish a reasonable reserve to pay not more than three years' interest on the notes and bonds of the district as provided in the bond orders or resolutions.

[Acts 1979, 66th Leg., p. 882, ch. 402, § 1, eff. Aug. 27, 1979.]

[Sections 54.522 to 54.600 reserved for expansion]

SUBCHAPTER G. TAXES

§ 54.601. Tax Levy For Bonds

At the time bonds payable in whole or in part from taxes are issued, the board shall levy a continuing direct annual ad valorem tax for each year while all or part of the bonds are outstanding on all taxable property within the district in sufficient amount to pay the interest on the bonds as it becomes due and to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption date and to pay the expenses of assessing and collecting the taxes.

[Acts 1971, 62nd Leg., p. 801, ch. 84, § 1.]

§ 54.602. Establishment of Tax Rate in Each Year

(a) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.

(b) In determining the actual rate to be levied in each year, the board shall consider among other things:

(1) the amount which should be levied for maintenance and operation purposes, if a maintenance tax has been authorized;

(2) the amount which should be levied for the payment of principal, interest, and redemption price of each series of bonds or notes payable in whole or in part from taxes;

(3) the amount which should be levied for the purpose of paying all other contractual obligations of the district payable in whole or in part from taxes; and

(4) the percentage of anticipated tax collections and the cost of collecting the taxes.

(c) In determining the amount of taxes which should be levied each year, the board may consider whether proceeds from the sale of bonds have been placed in escrow to pay interest during construction and whether the board reasonably expects to have

revenue or receipts available from other sources which are legally available to pay principal of or interest or redemption price on the bonds. The board shall levy a tax in the first full year after issuance of its first series of bonds.

[Acts 1971, 62nd Leg., p. 801, ch. 84, § 1. Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 54.603. Mandamus by Bondholders

In the event the board fails or refuses to levy a sufficient tax in each year which, together with other revenues or receipts which may be legally used for these purposes, will be sufficient to pay the required principal of or interest or redemption price on the bonds, notes, or other contractual obligations when due, or to pay the district's other contractual obligations payable from taxes in addition to all other remedies which may be available, the owner of the district's bonds, notes, or other contractual obligations shall be entitled to a writ of mandamus issued by a court of competent jurisdiction to compel the board to levy a sufficient tax to meet the district's obligations to the owners of its bonds, notes, or other contractual obligations.

[Acts 1971, 62nd Leg., p. 801, ch. 84, § 1.]

§ 54.604. Assessment and Collection of District Taxes

The assessor and collector shall assess and collect taxes for the district.

[Acts 1971, 62nd Leg., p. 801, ch. 84, § 1. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 54.605 to 54.637. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Prior to repeal, § 54.633 was amended by Acts 1979, 66th Leg., p. 372, ch. 167, § 1.

[Sections 54.638 to 54.700 reserved for expansion]

SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS

§ 54.701. Excluding Land from District

(a) Before the board calls an election for the authorization of bonds payable in whole or in part from taxes, the board may on its own motion call a hearing on the question of the exclusion of land from the district under the provisions of Sections 54.702-54.707 of this code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of any landowner or property

owner in the district filed with the secretary of the board before the time the first election on the question of the issuance of bonds payable in whole or in part from taxes is called.

[Acts 1971, 62nd Leg., p. 806, ch. 84, § 1.]

§ 54.702. Hearing to Announce Proposed Exclusions and to Receive Petitions

If the board determines that an exclusion hearing should be held or if a written petition requesting an exclusion hearing is filed with the secretary of the board as provided in Section 54.701 of this code, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

[Acts 1971, 62nd Leg., p. 806, ch. 84, § 1.]

§ 54.703. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 14 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions of land or other property and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest.

[Acts 1971, 62nd Leg., p. 806, ch. 84, § 1.]

§ 54.704. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds or lot and block number the land to be excluded. A petition for exclusion of other property must describe the property to be excluded.

(b) A petition for exclusion shall be filed with the district at least seven days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

[Acts 1971, 62nd Leg., p. 806, ch. 84, § 1.]

§ 54.705. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary and unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection of the district's facilities would create an undue

and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be bettered as to conditions of living and health, or provided with water or sewer service or protected from flood, or drained, or freed from interruption of traffic caused by excess of water on the roads, highways, or other means of transportation serving the land, or otherwise benefited by the district's proposed improvements.

[Acts 1971, 62nd Leg., p. 807, ch. 84, § 1.]

§ 54.706. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

[Acts 1971, 62nd Leg., p. 807, ch. 84, § 1.]

§ 54.707. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subsection (1) or (2) or, if appropriate, in Subsection (3) of Section 54.705 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subsections and shall redefine in the order the boundaries of the district to embrace all land not excluded. A copy of the order excluding land and redefining the boundaries of the district shall be filed in the deed records of the county or counties in which the district is situated.

[Acts 1971, 62nd Leg., p. 807, ch. 84, § 1.]

§ 54.708. Suit to Review Exclusion

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order.

[Acts 1971, 62nd Leg., p. 807, ch. 84, § 1.]

§ 54.709. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

[Acts 1971, 62nd Leg., p. 807, ch. 84, § 1.]

§ 54.710. Appeal

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 54.708-54.709 of this code to

the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

[Acts 1971, 62nd Leg., p. 807, ch. 84, § 1.]

§ 54.711. Adding Land by Petition of Landowner

The owner or owners of land contiguous to the district or otherwise may file with the board a petition requesting that there be included in the district the land described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.712. Assumption of Bonds

If the district has bonds, notes, or other obligations outstanding or bonds payable in whole or in part from taxes which have been voted but are unissued, the board may require the petitioner or petitioners to assume their share of the outstanding bonds, notes, or other obligations and the voted but unissued tax bonds of the district and authorize the board to levy a tax on their property in each year while any of the bonds, notes, or other obligations payable in whole or in part from taxation are outstanding to pay their share of the indebtedness.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.713. Petition Signed and Executed

The petition of the landowner to add land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.714. Hearing and Determination of Petition

(a) The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water, sewer, and drainage system and other improvements of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district.

(b) If the district has bonds payable in whole or in part from taxation which are voted but unissued at the time of an annexation, and the petitioners assume the bonds and authorize the district to levy a tax on their property to pay the bonds, then the board may issue the voted but unissued bonds even though the boundaries of the district have been altered since the authorization of the bonds.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.715. Recording Petition

A petition which is granted adding land to the district shall be filed for record and shall be record-

ed in the office of the county clerk of the county or counties in which the land is located.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.716. Adding Land by Petition of Less Than All the Landowners

In addition to the method of adding land to a district which is described in Sections 54.711-54.715 of this code, defined areas of land, whether or not they are contiguous to the district, may be annexed to the district in the manner set forth in Sections 54.717-54.724 of this code.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.717. Filing of Petition

A petition requesting the annexation of a defined area signed by a majority in value of the owners of land in the defined area, as shown by the tax rolls of the county or counties in which such area is located, or signed by 50 landowners if the number of landowners is more than 50, shall be filed with the secretary of the board.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.718. Hearing on Petition

It shall be the duty of the board to pass an order fixing a time and place at which the petition for annexation shall be heard which shall not be less than 30 days from the day of the order calling the hearing.

[Acts 1971, 62nd Leg., p. 808, ch. 84, § 1.]

§ 54.719. Notice of Hearing

The secretary shall issue a notice setting forth the time and place of the hearing and describing the area proposed to be annexed. Notice of the hearing shall be given by posting copies of the notice in three public places in the district, and in one public place in the area proposed to be annexed for at least 14 days before the day of the hearing and by publishing a copy of the notice in a newspaper of general circulation in the county or counties in which the area proposed to be annexed is located one time at least 14 days before the day of the hearing.

[Acts 1971, 62nd Leg., p. 809, ch. 84, § 1.]

§ 54.720. Order Adding Defined Area

If upon the hearing of the petition it is found by the board that the proposed annexation of the area to the district is feasible and practicable and would be of benefit both to the area and to the district, then the board, by order entered in its minutes, may receive the proposed area as an addition to and to become a part of the district. The order adding the proposed territory to the district need not include all of the land described in the petition, if on the hearing a modification or change is found necessary or desirable by the board.

[Acts 1971, 62nd Leg., p. 809, ch. 84, § 1.]

§ 54.721. Filing of Order Adding Land

(a) A copy of the order annexing land to the district, signed by a majority of the members of the board and attested by the secretary of the board, shall be filed and recorded in the deed records of the county or counties in which the district is located if the land is finally annexed to the district.

(b) After the order is recorded the area shall be a component part of the district.

[Acts 1971, 62nd Leg., p. 809, ch. 84, § 1.]

§ 54.722. Election to Assume Obligation and Unissued Bonds and to Authorize Additional Bonds

(a) The annexed area shall bear its pro rata share of all bonds, notes, or other obligations or taxes which may be owed, contracted, or authorized by the district to which it has been added.

(b) Before the added area shall be subject to all or any part of the bonds, notes, obligations, or taxes, created before the annexation of the area to the district, the board shall order an election to be held in the district, as enlarged by reason of the annexation of the area, on the question of the assumption of the bonds, notes, obligations, and taxes by the annexed area.

(c) At the same election, the board may also submit a proposition on the question of whether the annexed area should assume its part of the bonds of the district payable in whole or in part from taxes which have been voted previously but not yet issued or sold and the levy of an ad valorem tax on all taxable property within the area annexed along with a tax on the rest of the district for the payment of the bonds.

(d) If the election results favorably, the district shall be authorized to issue its voted but unissued tax bonds even though the boundaries of the district have been changed since the original election approving of the bonds.

(e) At the election called for the purpose of determining whether the annexed area shall assume the bonds, notes, or other obligations or taxes of the district, the board in a separate proposition, may also submit the question of whether the board should be authorized to issue bonds payable in whole or in part from taxes to provide service to the area annexed.

[Acts 1971, 62nd Leg., p. 809, ch. 84, § 1.]

§ 54.723. Unfavorable Assumption Election or Bond Election

(a) In the event that the district has bonds, notes, or obligations or taxes which may be owed, contracted, or authorized at the time an area is annexed or if the district has voted but unissued bonds payable in whole or in part from taxes at the time of an annexation, the board may provide in its order annexing an area to the district that the annexation will not be complete or final unless the indebted-

ness, tax or bond, note, or other obligation assumption elections result favorably to the assumption of the district's outstanding bonds, notes, or other obligations and voted but unissued bonds.

(b) If the board elects to submit the question of whether the board should be authorized to issue bonds to provide service to the area annexed, the board may also provide in its order annexing an area to the district that the annexation will not be complete unless the election results favorably to the issuance of bonds to serve the annexed area.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.724. Notice of Assumption Election

Whenever an election is ordered to be held in the district for the purpose of the assumption of bonds, notes, or other obligations or taxes or the assumption of voted but unissued bonds by reason of the annexation of any area, then the election shall be held and notice given as provided for bond elections held by the district.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.725. Suit to Review Annexation

The provisions of Sections 54.708-54.710 of this code with respect to an appeal from an order excluding land from the district shall apply to review of an order annexing land to the district.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.726. Right to Serve New Land Included in District

The district has the same right and duty to furnish service to the annexed land that it previously had to furnish service to other land in the district and the board shall endeavor to serve all land in the district without discrimination.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.727. Duty to Advise Executive Director

The board shall furnish the executive director a detailed description of any land excluded from or annexed to the district within 30 days after the exclusion or annexation or as soon after that time as practicable.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 54.728. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 54.729-54.733 of this code.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.729. Elections to Approve Consolidation

(a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations

and voted but unissued bonds payable in whole or in part from taxation, the levy of taxes to pay for the bonds, and adoption of a name for the consolidated district, the board shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.730. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district and are governed as one district, except for the payment of debts created before consolidation if the conditions of consolidation do not provide for the assumption by each district of the other's bonds, notes, or other obligations and voted but unissued bonds.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign. At the next general election, directors will be elected for the consolidated district in the same manner and for the same term as directors elected at a confirmation election.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer.

[Acts 1971, 62nd Leg., p. 810, ch. 84, § 1.]

§ 54.731. Debts of Original Districts

(a) After two or more districts are consolidated, the debts of the original districts shall be protected and may not be impaired. These debts may be paid by taxes levied on the land in the original districts as if they had not consolidated or from contributions from the consolidated district on terms stated in the consolidation agreement.

(b) If each district assumed the other's bonds, notes, and other obligations, taxes may be levied uniformly on all taxable property within the consolidated district in payment of the debts.

[Acts 1971, 62nd Leg., p. 811, ch. 84, § 1.]

§ 54.732. Assessment and Collection of Taxes

After consolidation, the district shall assess and collect taxes on property in the original districts to pay debts created by the original districts unless each district has assumed the other district's bonds, notes, or other indebtedness payable in whole or in part from taxation.

[Acts 1971, 62nd Leg., p. 811, ch. 84, § 1.]

§ 54.733. Voted But Unissued Bonds

In the event either district has voted but unissued bonds payable in whole or in part from taxation and the consolidated district assumed the voted but unissued bonds and the consolidated district was authorized to levy taxes to pay for the bonds, then the consolidated district shall be authorized to issue the voted but unissued bonds in the name of the consolidated district and levy a uniform tax on all taxable property in the consolidated district to pay for the bonds.

[Acts 1971, 62nd Leg., p. 811, ch. 84, § 1.]

§ 54.734. Dissolution of District Prior to Issuance of Bonds

(a) If the board considers it advisable before the issuance of any bonds, notes, or other indebtedness, the board may dissolve the district and liquidate the affairs of the district as provided in Sections 54.734-54.738 of this code.

(b) If a majority of the board finds at any time before the authorization of bonds, notes, or other obligations or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

[Acts 1971, 62nd Leg., p. 811, ch. 84, § 1.]

§ 54.735. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district and shall publish notice of the hearing two times in a newspaper with general circulation in the district. The notice must be posted and published at least 14 days before the hearing on the proposed dissolution of the district.

[Acts 1971, 62nd Leg., p. 811, ch. 84, § 1.]

§ 54.736. Hearing

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

[Acts 1971, 62nd Leg., p. 812, ch. 84, § 1.]

§ 54.737. Board's Order to Dissolve District

If the board unanimously determines from the evidence that the best interests of the persons and

property in the district will be served by dissolving the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

[Acts 1971, 62nd Leg., p. 812, ch. 84, § 1.]

§ 54.738. Judicial Review of Board's Order

The board's decree to dissolve the district may be judicially reviewed in the manner set forth in Sections 54.708-54.710 of this code for the review of an order excluding land from the district.

[Acts 1971, 62nd Leg., p. 812, ch. 84, § 1.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 55.001. Definitions

In this chapter:

- (1) "District" means a water improvement district created under this chapter.
- (2) "Board" means the board of directors of a water improvement district.
- (3) "Commission" means the Texas Water Commission.
- (4) "Executive director" means the executive director of the Texas Department of Water Resources.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

[Sections 55.002 to 55.020 reserved for expansion]

**SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION TO ARTICLE XVI,
SECTION 59, DISTRICT**

§ 55.021. Creation of District

A water improvement district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.022. District Wholly Within One County

The commissioners court of a county, at any regular or called session, may create one or more water improvement districts in the county as provided by this subchapter.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971.]

**§ 55.023. District May Include Cities, Towns,
Etc.**

A district may include all or part of one or more cities, towns, villages, and municipal corporations,

but no land may be included in more than one district at any one time.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.024. Petition

(a) A petition requesting creation of a district may be presented to the commissioners court. The petition must be signed by a majority of the persons who hold title to land in the proposed district, representing a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. However, if there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them. The petition must set out the boundaries of the district and designate a name for the district.

(b) The petition may be signed and presented to the commissioners court in several copies. In this case the county clerk shall make a certified copy of the petition, including a list of the names of all signers, and shall file the certified copy and the original copies. The certified copy of the petition shall be considered the petition in all proceedings under this chapter.

[Acts 1971, 62nd Leg., p. 428, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.025. Date Set for Hearing

The commissioners court shall set a date for a hearing on the petition, to be held at a regular or special session not less than 15 days nor more than 40 days after the day the petition is presented.

[Acts 1971, 62nd Leg., p. 429, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.026. Notice of Hearing

(a) The county clerk shall issue a notice of the hearing directed to the sheriff giving the date and place of the hearing, and a copy of the order of the court setting the hearing. The sheriff shall serve the notice in the manner provided by law.

(b) The sheriff shall post copies of the notice in three public places in the proposed district, and shall post one copy at the courthouse door or on the bulletin board used for public notices. These notices shall be posted for 10 full days before the date of the hearing. The notice shall also be published once in a newspaper of general circulation in the county, if a newspaper is published in the county, at least five days before the date of the hearing. The sheriff shall make return of a true copy of the notice, showing the times and places of posting and publication. The county clerk shall record the return in the minutes of the court.

(c) Any person interested may inspect the boundaries of the district as set out in the petition, and

any person may inspect the petition in the office of the county clerk.

[Acts 1971, 62nd Leg., p. 429, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.027. Hearing

(a) At the hearing, any person whose land is included in and would be affected by the district may support or oppose creation of the district and may offer testimony to show that the district is or is not necessary, would or would not be of public utility, or would or would not be feasible or practicable.

(b) Except as otherwise provided by this chapter, the commissioners court has exclusive jurisdiction to hear and determine all contests and objections to creation of the district and all other matters pertaining to creation of the district.

(c) The commissioners court may adjourn the hearing from day to day.

(d) The judgment rendered by the commissioners court is final, except as otherwise provided by this chapter.

[Acts 1971, 62nd Leg., p. 429, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.028. Findings; Order

The commissioners court shall make and enter its findings in the record. If it finds that creation of the district and the construction or purchase of the proposed irrigation system, or cooperation with the United States as provided by Section 55.161 of this code, is feasible, practicable, and necessary, and would be a public benefit and a benefit to the land included in the district, then the court shall make and enter an order granting the petition and directing that an election be held in the proposed district. Otherwise, the court shall dismiss the petition at the cost of the petitioners.

[Acts 1971, 62nd Leg., p. 430, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.029. Appeal

(a) Any petitioner or any landowner in the district aggrieved by the order of the commissioners court may appeal the order to the district court. Notice of appeal must be filed with the commissioners court at the time of the hearing, and an appeal bond must be filed with the county clerk within 10 days after the day notice of appeal is given. At the time notice of appeal is given, the commissioners court shall fix the amount of the appeal bond at not less than \$2,000 nor more than \$5,000; and the bond shall be made payable to the county judge for the benefit of adverse parties.

(b) Except as otherwise provided by this section, the appeal shall be tried de novo under the rules prescribed for practice in the district court and shall be de novo.

(c) The county clerk shall transfer to the district clerk the judgment and all records filed in the commissioners court within 10 days after the day the appeal bond is filed, and no other pleadings need be filed.

(d) The final judgment on appeal shall be certified to the commissioners court for its action within 10 days after the day the judgment becomes final.

[Acts 1971, 62nd Leg., p. 430, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.030. Notice of Election

(a) After the election is ordered, notices of the election shall be posted at four places in the proposed district, and one shall be posted at the courthouse door, for the 20 days preceding the date of the election.

(b) The notice of the election shall state the time and places the election will be held, the boundaries of the proposed district, the presiding officers appointed to hold the election, the propositions to be voted on, and the offices to be filled at the election.

[Acts 1971, 62nd Leg., p. 430, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.031. Voting Precincts

(a) The commissioners court, at the time it orders the election, shall order creation of one or more election precincts in the district and shall designate polling places in each precinct.

(b) The election precincts created under this section shall remain the election precincts of the district until changed by an order of its board.

[Acts 1971, 62nd Leg., p. 430, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.032. Election Officials

The commissioners court shall appoint two judges and two clerks for each polling place, and designate one of the judges to be presiding judge. If an officer fails to serve, his place shall be filled in the manner provided by the general election law.

[Acts 1971, 62nd Leg., p. 430, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.033. Ballots

The ballot for the election shall have printed on it only the following:

- (1) the heading, "Official Ballot";
- (2) the proposition, "(FOR) (AGAINST) Creation of the water improvement district";
- (3) the proposition, "(FOR) (AGAINST) Issuance of notes by the water improvement district"; and
- (4) five blank lines for writing in the names of persons for the office of director, under the head-

ing, "FOR DIRECTORS, FIVE TO BE ELECTED."

[Acts 1971, 62nd Leg., p. 431, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.034. Conduct of Elections

Except as otherwise provided by this subchapter, the election shall be conducted as provided by the general election law.

[Acts 1971, 62nd Leg., p. 431, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.035. Returns; Canvass

The officers of the election shall return the result of the election for each polling place, and the commissioners court shall canvass the returns.

[Acts 1971, 62nd Leg., p. 431, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.036. Order; Creation of District

The commissioners court shall enter an order declaring the results of the election. If a majority of the votes favor creation of the district, the court shall enter an appropriate order declaring the district to be created and describing its boundaries by metes and bounds.

[Acts 1971, 62nd Leg., p. 431, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.037. Directors

The commissioners court shall declare the five persons receiving the most votes to be elected directors. If not all five positions can be determined because of a tie vote, the commissioners court shall fill the necessary positions by selecting among the tying candidates.

[Acts 1971, 62nd Leg., p. 431, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.038. Issuance of Notes

(a) If the proposition to issue notes carries, the board of directors shall issue notes of the district, in an amount not to exceed four percent of the cost of the proposed improvements, for the purpose of creating a fund to pay the cost of organizing the district and the cost of all surveys, investigations, engineering, issuance of bonds, making and filing of maps and reports, legal expenses, and all other costs and expenses authorized or made necessary by the provisions of this chapter. The board shall sell the notes or exchange them in payment of the costs and expenses.

(b) The notes shall be secured by the levy, assessment, and collection of taxes as provided for payment of bonds. The notes shall be paid out of the proceeds of the district's bonds when they are issued and sold. If the bond election fails to carry, then the notes shall be paid out of the tax revenue.

[Acts 1971, 62nd Leg., p. 431, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.039. Recordation of Order

After the commissioners court makes and enters in its minutes the order creating the district or an order changing the name of a district, the court shall file a certified copy of the order with the county clerk, who shall have it recorded and indexed in the deed records of the county. Recordation of the order has the same effect, as to notice, as the recordation of a deed. The district shall pay the cost of making and recording copies of the order. [Acts 1971, 62nd Leg., p. 432, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.040. Multi-County District: Petition

Creation of a district composed of land in two or more counties may be initiated by presenting a petition to the commission signed by the owners of more than half the land in the proposed district or by 50 qualified property taxpaying electors of the territory of the proposed district. The petition shall describe the boundaries of the proposed district, request a hearing to determine the advisability of creating the district, and request an order for an election.

[Acts 1971, 62nd Leg., p. 432, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.041. Multi-County District: Notice of Hearing

The commission shall give notice, stating the time and place of the hearing, to the commissioners court of each county where land in the proposed district is located. The county clerk of each county shall post a notice of the time and place of the hearing at the courthouse door.

[Acts 1971, 62nd Leg., p. 432, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.042. Multi-County District: Hearing

At the hearing, any person whose land would be affected by creation of the district may appear and support or oppose creation of the proposed district, and may offer competent testimony to show that the district would or would not serve a beneficial purpose, be practicable, or accomplish the purposes intended.

[Acts 1971, 62nd Leg., p. 432, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.043. Multi-County District: Findings

(a) If the commission finds that the plan of water conservation, irrigation, and use presented in the petition is practicable and would be a public utility, the commission shall enter the findings in its records and shall send a certified copy of the findings to the commissioners court in each county in which part of the proposed district is located. The commission shall also inform each commissioners court of a date set by the commission on which an

election shall be held in the area of the proposed district to determine whether the district will be created and to elect five directors for the district.

(b) If the commission finds that creation of the district is not practicable, that it would not serve a beneficial purpose, and that it would not be possible to accomplish through its creation the purposes proposed, the commission shall enter its findings in its records and shall dismiss the petition.

[Acts 1971, 62nd Leg., p. 432, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.044. Multi-County District: Notice of Election

On receiving a certified copy of the findings of the commission authorizing the election, the commissioners court of each county shall have notices of the election posted, in the manner provided for an election to create a single-county district, for not less than 15 nor more than 30 days before the date of the election.

[Acts 1971, 62nd Leg., p. 432, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.045. Multi-County District: Rules Governing Election

Except as provided by the succeeding sections, the election shall be held, the returns made and canvassed, and the results declared, as provided in the case of a single-county district.

[Acts 1971, 62nd Leg., p. 433, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.046. Multi-County District: Election Returns, Canvass, Result

(a) The commission shall designate the county judge of one of the counties in the proposed district to act as a canvassing board to receive and canvass the votes cast and to declare the result of the election.

(b) In each county, the officers appointed by the commissioners court to hold the election shall return the results to the commissioners court and shall return all ballot boxes to the county clerk.

(c) On receiving the returns of the election, the commissioners court shall canvass the returns and certify the result of the election in the county to the county judge appointed to act as canvassing board.

(d) When the county judge receives the returns from all the counties, he shall canvass the returns and certify the result of the election to the commissioners court of each county, which shall enter the result of the election in its permanent records.

(e) If the proposition to create the district is carried, the county judge acting as the canvassing board shall make and transmit to each commissioners court an appropriate order declaring that the district is created and describing its boundaries. He shall also issue certificates of election to the persons elected as directors, who shall proceed with the

organization of the district as otherwise provided by this chapter.

[Acts 1971, 62nd Leg., p. 433, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.047. Exclusion of City, Unincorporated Area, or County Voting Against District

(a) As used in this section:

(1) "city" includes town or other municipal corporation; and

(2) "unincorporated area" means an area not included within the boundaries of a city.

(b) Each city included within the boundaries of the proposed district shall be treated as a separate voting unit, and the votes cast in the city shall be counted and canvassed to show the result of the election in the city. No city shall be included in the district unless the majority of the votes cast in the city favor creation of the district.

(c) If the proposed district includes both incorporated and unincorporated areas in a county, the unincorporated area shall not be included in the district unless the majority of the votes cast in the unincorporated area favor creation of the district.

(d) No district, the major portion of which is in one county, shall be organized to include land in another county unless the majority of the votes cast in the other county favor creation of the district.

(e) If any portion of a proposed district, under the provisions of this section, votes against creation of the district, and the remaining area of the proposed district votes for the district, then the proposition shall be adopted and the district confirmed except as to the territory voting against the district.

(f) All property in the territory of the district as originally proposed is subject to taxation for the payment of all debts and obligations, including organization expenses, incurred while part of the district.

(g) If at least 10 percent of the qualified electors of the area remaining in the district file a petition with the board of directors requesting a new election on creation of the district, then a new election shall be ordered and held for the remaining area, or the district organization may be dissolved by order of the board of directors and a new district formed.

[Acts 1971, 62nd Leg., p. 433, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.048. Name of District

(a) The name of a district wholly within one county shall include the name of the county and a number. Districts wholly within one county shall be numbered consecutively as created, and no two districts may have the same number.

(b) The name of a district with territory in two or more counties may include the names of those counties, or the district may adopt any appropriate

name. The name may include a number, but the number may not be the same as the number of a district in any of the counties. The number of a district created in any county may not be the same as the number of a district with territory in that county and other counties.

[Acts 1971, 62nd Leg., p. 434, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.049. Survey of District Boundaries

Immediately after the directors are qualified, the board shall order a survey of the boundaries of the district to be made according to the boundaries designated in the petition for creation of the district, or the board shall adopt, in whole or in part, the boundaries already established, and order the boundaries marked by suitable monuments.

[Acts 1971, 62nd Leg., p. 434, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.050. Chapter Applicable to Irrigation Districts

Irrigation districts created under the laws of 1905, 1913, and 1915 (Chapter 50, Acts of the 29th Legislature, 1905; Chapter 172, Acts of the 33rd Legislature, 1913; and Chapter 138, Acts of the 34th Legislature, 1915), are governed by the provisions of this chapter.

[Acts 1971, 62nd Leg., p. 434, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.051. Change of District Name

(a) An irrigation district created under the law of 1905, 1913, or 1915 (Chapter 50, Acts of the 29th Legislature, 1905; Chapter 172, Acts of the 33rd Legislature, 1913; and Chapter 138, Acts of the 34th Legislature, 1915), may change the name of the district to the name provided in this chapter by filing a declaration to change the name with the commissioners court of the county in which the district is located.

(b) The declaration to change the district's name shall be in the form of a deed of conveyance and shall be acknowledged by the president and secretary of the board. It shall include a copy of the minutes of the board and the resolution adopted to change the name.

(c) After the declaration is recorded, the name of the district shall be changed.

[Acts 1971, 62nd Leg., p. 434, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.052. Suits Contesting Creation of District, Etc.

Except as otherwise provided by this chapter, no suit may be brought enjoining creation of a district, contesting the validity of the proceedings creating the district, enjoining the issuance of bonds or contesting their validity, or enjoining the execution of a contract with the United States or contesting its validity, except by the attorney general, in the name of the State of Texas, on his own motion or on the motion of any affected party on good cause shown.

[Acts 1971, 62nd Leg., p. 435, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.053. Conversion of Article III, Section 52 District to Article XVI, Section 59 District

(a) A water improvement district created subject to the limitations of Article III, Section 52, of the Texas Constitution, may be converted into a water improvement district operating under the authority of Article XVI, Section 59, of the Texas Constitution, as provided by this section.

(b) On the petition of 20 percent of the owners of land in the district, the board of directors shall order an election to determine whether the district shall be converted to a district operating under Article XVI, Section 59, of the Texas Constitution. The election shall be conducted under the rules applicable to general elections in the district. The ballots shall be printed to provide for voting for or against: "Conservation and Reclamation."

(c) The board shall canvass the returns, make an order declaring the result of the election, and have the order recorded in the deed records of the county or counties in which the district is located. If the result of the election is affirmative, the district begins operating under Article XVI, Section 59, of the Texas Constitution, without change of name or impairment of its obligations, when the order is recorded.

[Acts 1971, 62nd Leg., p. 435, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.054 to 55.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 55.101. Board of Directors

The governing body of a district is the board of directors.

[Acts 1971, 62nd Leg., p. 435, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.102. Qualifications of Directors

To be qualified for election as a director, a person must be a resident of the state, own land subject to taxation in the district, and be more than 21 years of age at the time of the election.

[Acts 1971, 62nd Leg., p. 435, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.103. Application to Get on Ballot

(a) A person qualified to serve as a director may file an application with the secretary to have his name printed on the election ballots. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election.

(b) Only persons for whom applications are filed under this section may have their names printed on

the ballots. However, nothing in this section prevents write-in votes.

[Acts 1971, 62nd Leg., p. 435, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.104. Election Date: General Rule

Except as provided by Section 55.106 of this code, the general election of five directors shall be held in the district as provided by the Texas Election Code.

[Acts 1971, 62nd Leg., p. 436, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.105. Conduct of Elections

All district elections shall be held in accordance with the general election law except as otherwise provided by this chapter. The board of directors shall appoint necessary election officers, designate the polling places, receive and canvass the election returns, declare the result, and perform all other duties necessary to the proper conduct of the elections.

[Acts 1971, 62nd Leg., p. 436, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.106. Term of Office

Except as provided by Section 55.107 of this code, a director holds office for a term of four years and until his successor is elected and has qualified.

[Acts 1971, 62nd Leg., p. 436, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5215, ch. 951, § 7, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 55.107. Optional Conversion to Staggered Terms

(a) The board, by resolution adopted before December 1 of any year on the vote of at least four directors, may adopt the system of staggered two-year terms of office as provided by this section.

(b) On the first available election date as provided by Article 2.01b of Vernon's Texas Election Code in the first even-numbered year immediately succeeding adoption of the resolution, five directors shall be elected. Of the five elected, the two receiving the fewest votes shall serve for two years and the other three shall serve for four years. However, if the vote is such that two of them do not receive fewer votes than the other three, then the directors shall determine by lot which two will serve two years and which three will serve four years.

(c) After the election provided for in Subsection (b) of this section, on the same date in each following even-numbered year there shall be an election to

elect successors for the directors whose terms expire, to hold office for terms of four years.

[Acts 1971, 62nd Leg., p. 436, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 981, ch. 367, § 25, eff. June 10, 1981; Acts 1983, 68th Leg., p. 5215, ch. 951, § 8, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 55.108. Appointment of Directors in Certain Districts

(a) If the petition to create a district proposes a district which would contain no more than 12,000 acres of land, and if at least 60 percent of the land is owned by persons who do not reside in the district, the petition may request that the directors be appointed by the commissioners court. If so, the directors shall be appointed instead of elected. The commissioners court shall appoint the directors at the time otherwise fixed for electing directors, or if the court is not in session at that time, it shall appoint the directors as soon as possible.

(b) The owners of land in the district may file petitions with the commissioners court expressing their choice of persons to be selected as directors. If the owners of at least 60 percent of the land agree on the persons to be appointed, the commissioners court shall appoint those persons. Otherwise, the court shall appoint suitable, qualified persons as directors.

[Acts 1971, 62nd Leg., p. 436, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.109. Oath and Bond

(a) Each director shall take the oath of office prescribed by law for county commissioners, except that the name of the district shall be substituted for the name of the county.

(b) Within 10 days after the commissioners court enters its order declaring the result of the election and the creation of the district, or as soon after that time as practicable, each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(c) The bond of each director elected in the election to create the district is subject to the approval of the commissioners court. After the organization of the district, all bonds required to be given by any director, officer, or employee of the district are subject to the approval of the board.

(d) The county clerk shall record each bond and oath in the official bond records of the county and shall deliver them to the district depository to be preserved as a part of the records of the district.

[Acts 1971, 62nd Leg., p. 437, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.110. Additional Bonds

(a) If a district is appointed fiscal agent of the United States or is authorized to collect money for and in behalf of the United States in connection with any federal reclamation project, the assessor and collector and each director shall execute an additional bond in an amount set by the secretary of the interior, conditioned on the faithful performance of the duties of his office and the faithful performance by the district of its duties as fiscal or other agent of the United States.

(b) The additional bonds shall be approved, recorded, and filed as provided for other official bonds. The additional bonds may be sued on by the United States or by any person injured by failure of the officer or the district to perform fully, promptly, and completely the required duties.

[Acts 1971, 62nd Leg., p. 437, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.111. Compensation of Directors

(a) A director is entitled to receive not more than \$50 a day for each day he actually spends performing his duties as a director.

(b) Before a director may receive compensation for his services, he shall file with the secretary an affidavit stating the number of days actually spent in the service of the district. The affidavit shall be filed on the last Saturday of each month, or as soon after that time as practicable.

[Acts 1971, 62nd Leg., p. 437, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 942, ch. 154, § 1, eff. Aug. 30, 1971; Acts 1983, 68th Leg., p. 643, ch. 144, § 4, eff. May 17, 1983.]

§ 55.112. Officers; Quorum

(a) After each regular election, the board shall elect one director president and one secretary. The board may elect a president pro tem and a secretary pro tem, who shall act in the absence or inability of the president or secretary.

(b) Three directors constitute a quorum for any meeting; and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository, which require the concurrence of four directors. Warrants to pay current expenses, salaries, and labor and material accounts may be drawn by an officer or employee designated by standing order of the directors when these accounts have been contracted and ordered paid by the directors.

[Acts 1971, 62nd Leg., p. 437, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.113. Vacancies on Board

(a) Except as otherwise provided by this section, all vacancies on the board shall be filled by appointment of the board.

(b) If the number of directors is reduced for any cause to fewer than three, then the vacancies shall be filled by special election ordered by the president of the board or by two directors. If the president or two directors fail or refuse to order an election, then five persons who are either taxpayers or bondholders of the district may petition the judge of any judicial district in which land of the district is located, and the judge shall order the election.

(c) If an election is ordered under this section, then notice shall be given and the election shall be held as provided for general elections.

(d) If less than a quorum exists to approve the bonds of elected directors, then the bond for each director shall be approved by the commissioners court of the county of his residence.

(e) A director appointed or elected under this section holds office until the next general election and until his successor is elected and has qualified.

[Acts 1971, 62nd Leg., p. 438, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.114. General Manager

(a) The board may employ a general manager.

(b) In addition to other powers granted and duties imposed by the board, the general manager shall:

(1) manage the district's water distribution system, subject to the rules and regulations of the board;

(2) appoint and discharge district employees, except the tax assessor and collector;

(3) purchase and contract for all supplies necessary for the water distribution system, after the board has authorized the purchases;

(4) collect the assessments for operation and maintenance; and

(5) execute, on behalf of the district, water contracts and other contracts not required to be executed by the board or by the president and secretary.

[Acts 1971, 62nd Leg., p. 438, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.115. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall also perform the duties of a director without the compensation specifically provided for directors.

[Acts 1971, 62nd Leg., p. 438, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.116. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office.

[Acts 1971, 62nd Leg., p. 438, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.117. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 55.118. Deputy Tax Assessor and Collectors

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy shall perform duties as determined by the board, and the board may discharge a deputy at any time.

(c) Each deputy shall execute a bond in an amount determined by the board at the time of his appointment and at any other time as ordered by the board.

[Acts 1971, 62nd Leg., p. 439, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.119. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy.

[Acts 1971, 62nd Leg., p. 439, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.]

§ 55.120. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter and may provide additional compensation for performing the additional duties.

[Acts 1971, 62nd Leg., p. 439, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.121. Other Employees

The general manager, or the board if no general manager is appointed, shall employ the employees necessary for the proper operation of the district, including attorneys, bookkeepers, engineers, water-masters, and necessary assistants and laborers.

[Acts 1971, 62nd Leg., p. 439, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.122. Employees: Compensation and Terms of Employment

The manager and the employees shall be employed for the period of time and on terms and conditions deemed most favorable for the district. However, no employment contract may be made for a period of more than one year, and the salary or compensation shall be fixed at the time of employment.

[Acts 1971, 62nd Leg., p. 439, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.123. Surety Company Bond

(a) An officer or employee of a district who is required to execute a bond or give security may execute a bond of a surety company, subject to the approval of the board. The surety company furnishing the bond shall file with the county clerk a power of attorney, executed by the officers of the company and bearing the company seal, showing that the person who signed the bond for the company had the authority to do so.

(b) The power of attorney shall be kept on file in the county clerk's office, and the bond shall be preserved as property of the district.

[Acts 1971, 62nd Leg., p. 439, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.124. District Office

The board shall maintain a regular office suitable for conducting the affairs of the district. The office shall be located within the district, or in a city or town proximate to the district and in the same county or counties, if the city or town is best suited for transacting the business of the district and is accessible to the residents of the district.

[Acts 1971, 62nd Leg., p. 440, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.125. Meetings

(a) The board shall hold all meetings at the district office.

(b) The board shall hold regular meetings at 10 a. m. on the first Monday in February, May, August, and November of each year, and may hold other regular or special meetings.

(c) Any resident taxpayer or interested person may attend any meeting of the board and present matters for the board's consideration, but no person may participate in any meeting without the consent of the board, and no person other than the directors may vote on any matter considered by the board.

[Acts 1971, 62nd Leg., p. 440, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.126. Suits

A district may sue and be sued in the courts of this state in the name of the district. All courts of this state shall take judicial notice of the creation of the district and of its boundaries.

[Acts 1971, 62nd Leg., p. 440, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.127. Contracts

District contracts shall be executed by the board in the name of the district.

[Acts 1971, 62nd Leg., p. 440, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.128. Prohibited Interests of Directors

(a) No director, district engineer, or district employee, either for himself or as agent for anyone else, may be directly or indirectly interested in any contract for the purchase or construction of any improvements by the district.

(b) A person who violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 or by confinement in jail for not less than six months nor more than one year, or by both.

[Acts 1971, 62nd Leg., p. 440, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.129 to 55.160 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**§ 55.161. Purposes of District**

(a) A water improvement district may provide for irrigation of the land within its boundaries.

(b) A district operating under Article XVI, Section 59, of the Texas Constitution, may furnish water for domestic, power, and commercial purposes.

(c) A district may be formed to cooperate with the United States under the federal reclamation laws for the purpose of:

- (1) construction of irrigation and drainage facilities necessary to maintain the irrigability of the land;
- (2) purchase, extension, operation, or maintenance of constructed facilities; or
- (3) assumption, as principal or guarantor, of indebtedness to the United States on account of district lands.

[Acts 1971, 62nd Leg., p. 440, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.162. Machinery, Supplies, Etc.

The district may purchase work animals, machinery, and supplies needed in the construction, operation, and repair of district improvements.

[Acts 1971, 62nd Leg., p. 441, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.163. Improvements: Purchase or Construction

A district may purchase or construct improvements and facilities necessary for irrigation of land in the district, and if operating under Article XVI, Section 59, of the Texas Constitution, improvements and facilities necessary to supply, deliver, and sell water for domestic, power, and commercial purposes.

[Acts 1971, 62nd Leg., p. 441, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.164. Land; Rights-of-Way

The district may acquire by gift, grant, purchase, or condemnation, any land or right-of-way necessary or incident to the successful operation of its improvements, including rights-of-way for the enlargement, extension, or improvement of existing canals or ditches for the purpose of raising the canals or ditches jointly with the owners.

[Acts 1971, 62nd Leg., p. 441, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.165. Drainage Ditches: Levees

The board may include in the plans of the district the necessary drainage ditches, or other facilities for drainage, and levees for the protection of land in the district. The district may purchase all or part of any system belonging to a drainage district. However, the purchase contract shall provide for paying or assuming the debts of the drainage district, and the amount of the debts paid or assumed shall be considered in determining the bond-issuing capacity of the district.

[Acts 1971, 62nd Leg., p. 441, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.166. Constructing Bridges and Culverts Across and Over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts.

[Acts 1971, 62nd Leg., p. 441, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.167. Constructing Culverts and Bridges Across and Under Railroad Tracks and Roadways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways to enable the district to construct and maintain any canal, lateral, or ditch which is a necessary part of its improvements.

(b) Before the district proceeds to build bridges and culverts, the board shall deliver to the legal agent, division superintendent, or roadmaster written notice. The railroad company shall have 30 days in which to build the bridges and culverts at its own expense and according to its own plans.

(c) The bridges and culverts shall be placed at points designated by the board or the district engineer and shall be constructed so that they will not interfere with the free and unobstructed flow of water passing through the canal or ditch.

[Acts 1971, 62nd Leg., p. 441, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.168. Right to Enter Land

(a) The board, the district engineer, and the employees of the district may enter any land inside the district to examine the land, to locate reservoirs, canals, dams, pumping plants, and other improvements, and to make maps and profiles of the land. The board, the district engineer, and the district's employees may also go outside the boundaries of the district to accomplish the same purposes for which they may enter land inside the district and for any other purposes related to those listed.

(b) A person who wilfully violates Subsection (a) of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$100 for each day he violates the law.

[Acts 1971, 62nd Leg., p. 442, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.169. Construction Contracts

The board shall enter into contracts with the lowest responsible bidders for construction of reservoirs, dams, canals, laterals, pumping plants, check gates, sluice gates, and other improvements for the district. This section does not apply to contracts made by the district with the United States.

[Acts 1971, 62nd Leg., p. 442, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.170. Notice of Taking Bids for Construction

The board shall give notice that it is taking bids for construction under Section 55.169 of this code by publishing notice once a week for four consecutive weeks in one or more newspapers with general circulation in the state and in one newspaper published in the county if a newspaper is published in the county and one newspaper published in the district if a newspaper is published in the district. Also, the board shall post notice for at least 20 days at the courthouse door and at five other public places in the district.

[Acts 1971, 62nd Leg., p. 442, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.171. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work and who requests it a copy of the engineer's report and profile which show the work to be done. The board may charge for each copy of the engineer's report and profile an amount sufficient to cover the actual cost of having them made and furnished.

[Acts 1971, 62nd Leg., p. 442, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.172. Construction Bids

Any person who desires to bid on proposed construction work shall submit to the president or the secretary of the board a written sealed bid together with a certified check for at least two percent of the total amount of the bid. Bids shall be opened at the

same time, and the board may reject any or all of the bids. If the successful bidder refuses to enter into a proper contract with the district, he forfeits the amount of the certified check which accompanied his bid.

[Acts 1971, 62nd Leg., p. 442, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.173. Provisions of Contracts for Construction Work

Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict. The contract shall include a full statement of the specifications for work included in the contract, and all work shall be done in accordance with these specifications under the supervision of the board and the district engineer.

[Acts 1971, 62nd Leg., p. 442, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.174. Executing and Recording Construction Contract

Contracts for construction work shall be in writing and signed by the board and the contractor. A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose. The contract shall be available for public inspection.

[Acts 1971, 62nd Leg., p. 443, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.175. Contractor's Bond

The contractor shall execute a bond in an amount determined by the board, not to exceed the contract price, payable to the district and approved by the board, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract. The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default. The bond shall be deposited in the district depository, and a copy of the bond shall be kept in the office of the board.

[Acts 1971, 62nd Leg., p. 443, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.176. Inspection of and Reports on Construction Work

(a) The board shall inspect construction work being done for the district under contract to determine whether or not the contract is being fulfilled.

(b) During the progress of the construction work, the district engineer shall submit to the board detailed reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the

contract and stating any particular instances in which the contract was not fulfilled. The board is not bound by the report of the district engineer and may investigate the work to determine if the contractor complied with the contract.

[Acts 1971, 62nd Leg., p. 443, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.177. Payment for Construction Work

When construction work is completed according to the terms of the contract, the board shall draw a warrant on the district depository payable to the contractor or his assignee in the amount owed the contractor under the contract.

[Acts 1971, 62nd Leg., p. 443, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.178. Partial Payment of Construction Work

In order to obtain more favorable contracts, the board may authorize construction work to be paid for in partial payments as the work progresses. The total amount of partial payments made under the contract may not be more than the amount due for 85 percent of the work done under the contract. The district engineer shall indicate the amount of work completed in a certified report.

[Acts 1971, 62nd Leg., p. 443, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.179. Joint Ownership Contracts

Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the organization and operation of the districts. The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract.

[Acts 1971, 62nd Leg., p. 444, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.180. Election to Approve a Joint Ownership and Construction Contract

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 55.179 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made available for public inspection. During the 15-day period immediately preceding the day of the election, each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(d) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(e) The contract may be amended in the manner provided for adopting the original contract.

[Acts 1971, 62nd Leg., p. 444, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.181. General Manager for Joint Projects

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract.

[Acts 1971, 62nd Leg., p. 444, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.182. Transactions in District Names Under Joint Ownership and Construction Contracts

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract.

[Acts 1971, 62nd Leg., p. 444, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.183. Joint Projects Under Joint Ownership and Construction Contracts

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of any of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project.

[Acts 1971, 62nd Leg., p. 444, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.184. Additional Powers of Districts Under Joint Ownership and Construction Contracts

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district.

[Acts 1971, 62nd Leg., p. 445, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.185. Contract With The United States

The board may enter into a contract or other obligation with the United States for the following purposes:

- (1) to construct, operate, and maintain necessary facilities to deliver and distribute water;
- (2) to drain district land;
- (3) to assume debt for district land;

(4) to rent temporarily United States water for use on district land under the federal reclamation laws; or

(5) to furnish a water supply to the district under any act of Congress which authorizes it.

[Acts 1971, 62nd Leg., p. 445, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.186. Payments Made By a District Under a Contract With The United States

(a) If a district enters into a contract with the United States, the district may deposit with the United States district bonds at 90 percent of par value to pay the amount owed by the district under the contract. The district shall pay interest on the bonds in the same manner that other bonds of the district are paid. Interest shall be paid regularly to the United States and applied in the manner provided in the contract.

(b) If bonds are not deposited as provided in Subsection (a) of this section, the board shall include in any levy or assessment made by the district an amount sufficient to make annual payments under the terms of the contract.

[Acts 1971, 62nd Leg., p. 445, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.187. District as Fiscal Agent for United States

The board may accept on behalf of the district appointment as the fiscal agent for the United States on any federal reclamation project. As fiscal agent, the district may assume the duties and perform the acts incident to this capacity and shall do anything required by federal statutes and rules and regulations established by any department of the federal government.

[Acts 1971, 62nd Leg., p. 445, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.188. Conveying Property to the United States

If the district enters into a contract with the United States, the board may convey to the United States any property which is necessary for constructing, operating, and maintaining improvements for the benefit of the district.

[Acts 1971, 62nd Leg., p. 445, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.189. Contracts and Agreements With Other Districts

(a) The board may enter into a contract or other obligation with any other water improvement district, any water control and improvement district, or any conservation and reclamation district to construct, operate, and maintain necessary facilities for the delivery and distribution of water from the other district or to drain district land and may enter into a contract with the same district for that district to pump and supply water.

(b) The contract may include provisions for the joint construction and operation of necessary facilities for delivery and distribution of the water supply, but the terms and conditions of the contract may not conflict with the law providing for the organization and operation of the districts.

(c) The agreement of the parties shall be included in a written contract. The contract shall be acknowledged in the manner and form provided by law for conveyance of real estate, and shall be recorded in the real estate records of the county or counties in which the districts are located.

(d) The boards of the districts which are parties to the contract may amend the contract by mutual agreement.

[Acts 1971, 62nd Leg., p. 445, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.190. Issuing Bonds to Pay Cost of Projects Under Contracts With Other Districts

Any district which enters into a contract under Sec. 55.189 of this code may issue bonds to pay for carrying out the provisions of and paying obligations under the contract. The district may issue the bonds separately or as part of a general bond issue of the district, in the manner and subject to the regulations, terms, conditions, and provisions of other bonds issued under this chapter.

[Acts 1971, 62nd Leg., p. 446, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.191. Providing Facilities for Water Supply Obtained From Other Districts

Any district which has entered into a contract to obtain a water supply under Section 55.189 of this code may make or purchase improvements necessary to receive and distribute the water supply to lands in the district for district purposes.

[Acts 1971, 62nd Leg., p. 446, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.192. Acquiring Water Rights

Any district may acquire water rights in the manner provided by law.

[Acts 1971, 62nd Leg., p. 446, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.193. Selling Water Rights

(a) Any district which has a permit issued by the commission to construct a reservoir and to appropriate water from a stream or watershed for irrigation or other purposes may convey to another district an interest in the reservoir or water rights.

(b) The conveyance shall be recorded in the office of the county clerk of the county in which the property is located and in the office of the executive director.

(c) The conveyance, when filed, shall convey all rights in the interest conveyed which were held

under the permit by the district conveying the interest.

(d) After the conveyance is filed in the office of the executive director, the rights conveyed vest in the district to which the conveyance was made as if the rights were granted directly by the commission.

[Acts 1971, 62nd Leg., p. 446, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.194. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as other land already in the district.

[Acts 1971, 62nd Leg., p. 446, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.195. Supplying Water to Cities Outside the District

When a district acquires an established irrigation system which supplies water to landowners in a city, town, or village which is not included in the district, the district shall continue to supply water to the landowners at a reasonable annual rate.

[Acts 1971, 62nd Leg., p. 447, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.196. Selling Waterpower Privileges

The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs and irrigation system. The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for irrigation and for municipal purposes in districts which furnish water for municipal purposes.

[Acts 1971, 62nd Leg., p. 447, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.197. Selling Surplus Water

The district may sell to any person who owns or uses land in the vicinity of the district any surplus district water for use in irrigation or for domestic or commercial uses.

[Acts 1971, 62nd Leg., p. 447, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.198. Pumping and Delivering Water to Land Near District

The district may enter into a contract with a person who owns or uses land in the vicinity of the district and who has a permit from the commission to appropriate water for use in irrigation or for

domestic or commercial uses to pump or deliver the water to the person's land.

[Acts 1971, 62nd Leg., p. 447, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.199. Sale of Land Which is No Longer Needed for District Purposes

(a) The board may sell to the highest bidder at a public sale any land or interest in land which was acquired by the district to carry out its plans and which is no longer necessary to carry out that purpose.

(b) Before the land is sold, the district must publish notice of the sale once a week for two consecutive weeks in one or more newspapers which have general circulation in the district. The first notice must be published at least 10 days before the sale.

(c) The district may use the proceeds from the sale to add to or improve district improvements for which other funds are not available, and any funds which are not needed for this purpose shall be placed in the interest and sinking fund to retire the district's outstanding bonds. The board may use for any other lawful purpose any remaining funds which are not required to accomplish the purposes stated above.

[Acts 1971, 62nd Leg., p. 447, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.200. Sale of Land Acquired by a District for Other Than District Purposes

The district may sell to the highest bidder at a public sale any land acquired by the district through foreclosure of liens for maintenance and operation assessments or acquired by the district for any purpose other than carrying out its plans. The board may use proceeds from the sale for making improvements in the district, for maintenance and operation of the district's system, or for carrying on district business.

[Acts 1971, 62nd Leg., p. 447, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.201. Use of Excess District Money

After all district improvements are completed and all expenses are paid, the board may use any remaining money to preserve, maintain, and repair district improvements.

[Acts 1971, 62nd Leg., p. 448, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.202. Board's Semiannual Report

On the first day of January and July of each year, the board shall make and verify a report which shows in detail the kind, character, and amount of improvements constructed in the district, the cost of the improvements, the amount of each warrant paid, the person to whom each warrant was paid, the purpose for which each warrant was paid, and other data necessary to show the condition of improve-

ments made. The report shall be filed with the county clerk in the county or counties in which the district is located and made available for public inspection.

[Acts 1971, 62nd Leg., p. 448, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.203. Court Actions

Any district through its board of directors may bring suit

- (1) to protect its water supply and other rights and property;
- (2) to prevent unlawful or unwarranted interference with or diversion of the water supply;
- (3) to protect its bonds and other indebtedness; and
- (4) to maintain its taxable and assessable values.

[Acts 1971, 62nd Leg., p. 448, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.204. Waiver of District Tort Immunity

If the board finds that it is in the best interest of the district and that it is necessary to enable the district to enter into a contract to employ Mexican laborers, it may enter into a written contract to waive in advance the district's immunity from liability in damages for personal injuries and sickness which is proximately caused by torts of the district or negligence of agents or employees of the district and which is suffered by Mexican laborers employed by the district under the terms of the Migrant Labor Agreement of 1951 between the United States and Mexico or any subsequent agreement of a similar nature.

[Acts 1971, 62nd Leg., p. 448, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.205 to 55.240 reserved for expansion]

SUBCHAPTER E. REGULATORY POWERS

§ 55.241. Purpose

The powers granted to the district and its board under this subchapter are for the purpose of helping the district to maintain the purity of district water, to protect the preservation and use of the water, to protect the lives of persons who desire to go on, over, or across the water, and to insure the safety of persons using the water.

[Acts 1971, 62nd Leg., p. 448, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.242. Rules and Regulations

The board may make and adopt reasonable rules and regulations which are necessary

- (1) to preserve the sanitary condition of water controlled by the district;
- (2) to prevent waste or unauthorized use of water; and

(3) to regulate residence, boating, camping, and recreational and business privileges on any land or water owned or controlled by the district.

[Acts 1971, 62nd Leg., p. 449, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.243. Notice of Rules and Regulations

(a) Before a rule or regulation providing for a penalty may be effective, the district must publish a substantial statement of the rule or regulation and the penalty in one or more newspapers with general circulation in the district once a week for two consecutive weeks.

(b) The published statement shall be as condensed as possible so that the object to be accomplished or the act which is forbidden by the rule or regulation can be easily understood.

(c) The publication of notice may include notice of any number of rules and regulations.

(d) The notice shall include a statement that the violation of a rule or regulation will subject the person who violates it to a penalty and that a complete copy of the rule or regulation is on file in the principal office of the district and may be inspected.

(e) A rule or regulation shall be effective five days after the second publication of the notice, and ignorance of the rule or regulation does not constitute a defense to prosecution for enforcement of the penalty.

[Acts 1971, 62nd Leg., p. 449, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.244. Judicial Notice of Rules and Regulations

The courts shall take judicial notice of rules and regulations made and adopted under this subchapter. The rules and regulations shall be considered to be similar in nature to valid penal ordinances of a city.

[Acts 1971, 62nd Leg., p. 449, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.245. Contracts for Toll Bridges and Ferry Services

(a) The board has the exclusive right to enter into a contract with any responsible person to construct and operate toll bridges over water regulated by the district or to provide ferry service or other means of passenger transportation on water regulated by the district.

(b) A contract for construction and operation of a toll bridge may not extend for a period of more than 20 years and a contract providing for ferry service or other types of transportation may not extend for a period of more than 10 years.

(c) The contract may provide for forfeiture of the franchise or rights granted for failure of the licen-

see or other contracting party to render adequate and safe public service.

[Acts 1971, 62nd Leg., p. 449, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.246. Bond

The board shall require any person with whom it enters into a contract under Section 55.245 of this code to execute an adequate bond in an amount not to exceed \$1,000, payable to the district and conditioned as the board requires.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.247. License, Franchise, and Fee

(a) Before a person may keep or operate for hire on district water a ferry or other type of transportation, the person must obtain a license or franchise from the board.

(b) The board may fix the fee to be charged for the license or franchise in an amount not to exceed \$250 a year, and shall fix the fee according to the type of boat used.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.248. Charges for Use of Toll Bridge Facilities and Ferry Service

The board may fix a reasonable amount of compensation to be charged by the owner or operator of a toll bridge or a ferry service or other type of transportation service for use of the facilities.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.249. Regulating Boats

(a) The district may prescribe the type of boats to be used on district water to carry persons for hire and for recreational purposes and may require the owner of a boat to submit the boat at a reasonable time to inspection to determine if the boat is serviceable.

(b) In an effort to protect the lives of the occupants of boats and persons using district water, the district may prescribe reasonable requirements for the use and manner in which they are used.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.250. Responsibilities of Boat Owners and Operators

(a) The owner or operator of a boat used as a ferry or other type of transportation shall keep the boat and boat landings in good and safe condition.

(b) The district is not liable for any negligent act or failure of duty on the part of the owner or operator of the boat.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.251. Peace Officers

The district may employ and constitute its own peace officers. The peace officers may make arrests when necessary to prevent or abate the commission of an offense against the regulations of the district or state laws if the offense occurs or is about to occur on land or water owned or controlled by the district. Arrests also may be made any place where an offense is being committed which involves injury or detriment to any property owned or controlled by the district.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.252. Penalty for Violation of Subchapter

(a) A person who violates the provisions of this subchapter or rules and regulations of the district upon conviction is punishable by a fine of not more than \$100 or by confinement in the county jail for not more than 30 days, or by both.

(b) The penalties provided by this section are in addition to other penalties provided by Texas law, and may be enforced by a complaint filed in a court of competent jurisdiction in the county in which the district's principal office is located.

[Acts 1971, 62nd Leg., p. 450, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.253. Injunction

In addition to the penalties provided by this subchapter, the district may seek an injunction in a court of competent jurisdiction in the county in which district water is located to enforce the provisions of this subchapter and rules and regulations of the district.

[Acts 1971, 62nd Leg., p. 451, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.254 to 55.290 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

§ 55.291. Power of Eminent Domain

(a) Except as otherwise provided in this subchapter, the district may exercise the power of eminent domain to acquire by condemnation any property interest for the purposes stated in Section 55.292 of this code. The district also may acquire by condemnation from any land located in the district or within one mile of any district improvements earth, gravel, stone, clay, or any other materials which are needed to accomplish any of the purposes for which the district may condemn land.

(b) Land acquired under Subsection (a) of this section may be private or public and may be located inside or outside the district.

[Acts 1971, 62nd Leg., p. 451, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.292. Purposes for Which Land May be Condemned

The district may condemn land for the following purposes:

(1) to construct, maintain, operate, police, and protect dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other improvements necessary and proper for the district;

(2) to provide sites for construction and working purposes; and

(3) to provide passways and roadways along or to and from any dams, reservoirs, canals, laterals, pumping sites, drainage ditches, levees, and other district improvements.

[Acts 1971, 62nd Leg., p. 451, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.293. Land Exempt from Condemnation

The district may not condemn any property used to supply water under Texas law and necessary to make reservoirs, canals, laterals, pumping sites, levee or drainage ditches, or other appurtenant works. If the district is not operating under Article XVI, Section 59, of the Texas Constitution, it may not condemn property used for cemetery purposes.

[Acts 1971, 62nd Leg., p. 451, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.294. Right to Remove Timbers and Other Materials from Condemned Land

The district is entitled to remove from any property which it takes by condemnation any timber or other materials necessary to construct, maintain, and operate any of the district's improvements or other structures.

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.295. Compensation Paid for Property Taken by Condemnation

The owner of property which is taken, damaged, or destroyed through the exercise of the power of eminent domain shall receive adequate compensation.

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.296. Law Governing Eminent Domain Proceedings

Except as otherwise provided in this subchapter, procedure for condemnation, appeal, and payment and for assessing damages shall conform to the law found in Title 52, Revised Civil Statutes of Texas, 1925, as amended.¹

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ Civil Statutes, art. 3264 et seq.

§ 55.297. Condemnation Proceedings

Condemnation proceedings shall be handled in the name of the district and under the direction of the board.

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.298. Simultaneous Condemnation of Several Parcels of Property

A petition for condemnation may include several parcels of property located in the same county whether the parcels are owned by the same person or persons or by several different persons. Compensation or damages paid for parcels of property which are owned by the same person or persons may be assessed separately or together, but if the parcels of property are separately owned by several different persons, compensation shall be assessed separately for each ownership.

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.299. Jurisdiction Over Persons Who are Unknown or Under a Disability

In condemnation proceedings, the jurisdiction of the court may be invoked by alleging that the person owning the land or an interest in the land to be condemned cannot be found after a diligent search, that his residence is unknown, or that he is a minor or has some other legal disability. This allegation is a sufficient statement that the district and the owner are unable to agree on the value of the land or on the amount of damages.

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.300. Title Disputes Involving Condemned Property

(a) A district court in the county in which condemnation proceedings are pending shall have jurisdiction to determine conflicting and adverse claims to property and to award damages.

(b) If title to property is in dispute between two or more parties or there are conflicting or adverse claims, the damages shall be paid to the court until the dispute is resolved and then shall be paid to the rightful owner.

[Acts 1971, 62nd Leg., p. 452, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971.]

§ 55.301. Omitting Property Owners from Proceedings and Failing to Notify Property Owners of Proceedings

If a property owner is omitted from the condemnation proceedings or fails to receive notice of the proceedings, the omission or failure does not invalidate the proceedings and judgment of condemnation covering any person who was a party to the proceedings and who received proper legal notice. The property or interest in property which belongs to a

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person was omitted from the proceedings or who failed to receive notice may be acquired by condemnation in subsequent condemnation proceedings.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.302. Payment of Compensation and Damages

Compensation and damages awarded in condemnation proceedings shall be paid from the construction and maintenance fund of the district.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.303. Title Disputes and Appeals from Damage Assessments Not to Suspend Work of District

The work of the district in connection with property to be acquired by condemnation may not be suspended because of delay in determining the rightful owner of the property or because of appeal from the finding and assessment of damages.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.304. Suits Against the District

If a district is sued for any property occupied by it or taken by it for any of its purposes or if sued for damages to the property, the court in which the suit is pending may determine all matters in dispute between the parties. On petition or cross-bill of the defendant, the court may consider condemnation of the property.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.305 to 55.330 reserved for expansion]

SUBCHAPTER G. DISTRICT SURVEY**§ 55.331. District Engineer**

After the district is established and the members of the board have qualified, the board may employ an engineer for the district.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.332. Duties of the Engineer

The engineer shall make a complete survey of the land included in the district and make a map and profile of the canals, laterals, reservoirs, dams, and pumping sites located in the district and extending beyond the limits of the district.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.333. Maps

(a) The map shall show the name and number of each survey and the area in the district in number of acres.

(b) The map shall show the relation that each canal and lateral bears to each tract of land through which it passes and the shapes into which it divides each tract. If the canal or lateral cuts off any less than 20 acres from any tract, the map shall show the number of acres in the whole tract and the shape of the small tract and its relationship to the canal or lateral.

(c) The map shall show how much and what part of each tract can be irrigated by the canal or lateral.

(d) The profile map shall also show in detail the number of cubic yards which need to be excavated or moved to make the reservoir, canal, or lateral, and the specifications for other works necessary to the construction of improvements proposed for the district, and the estimated cost of each.

[Acts 1971, 62nd Leg., p. 453, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.334. Adopting Old Surveys

(a) The engineer may adopt any surveys made in the past by any person who has applied for or appropriated any water for irrigation under state law.

(b) The engineer also may adopt any surveys for canals, laterals, reservoirs, dams, or pumping sites shown on these maps or plats or may adopt other maps, plats, and surveys which he is satisfied are correct.

[Acts 1971, 62nd Leg., p. 454, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.335. Additional Improvements

If additional improvements of canals, ditches, laterals, reservoirs, or pumping plants are to be constructed, the report shall contain the detailed information with reference to these additional improvements.

[Acts 1971, 62nd Leg., p. 454, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.336. Existing Improvements

If the district contains any pumping plants, canals, dams, ditches, or reservoirs which the district is planning to acquire or purchase, the map or plat and the estimates required in this subchapter shall show these improvements and the price or probable price at which they may be acquired or purchased.

[Acts 1971, 62nd Leg., p. 454, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.337. Signing and Filing Engineer's Report, Map, and Profile

After the map, profile, specifications, and estimates are completed, the engineer shall sign them and file them with the secretary of the board.

[Acts 1971, 62nd Leg., p. 454, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.338. Maps and Data Unnecessary Under Contract With United States

None of the maps and data prescribed by this subchapter are required under a contract with the United States except for maps and data needed to make assessments and levies.

[Acts 1971, 62nd Leg., p. 454, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.339 to 55.350 reserved for expansion]

SUBCHAPTER H. WATER ASSESSMENTS

§ 55.351. Statement Estimating Water Requirements and Payment of Charge

Each person desiring to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop. At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board for immediate payment. If any person applying for water from the district does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year.

[Acts 1971, 62nd Leg., p. 455, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.352. Assessments for Maintenance and Operating Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months.

[Acts 1971, 62nd Leg., p. 455, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.353. Methods for Determining Maintenance and Operating Expenses

The board may make assessments for maintenance and operating expenses as provided in this subchapter on the basis of the quantity of water used.

[Acts 1971, 62nd Leg., p. 455, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.354. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system. The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine

from year to year the proportionate amount of the expenses which will be borne by water users under this subsection.

(b) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use. All persons using water to plant the same crop will pay the same price per acre for the water.

[Acts 1971, 62nd Leg., p. 455, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.355. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district.

(b) Printed notices shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) The notice shall be posted in a public place and mailed to the landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied.

[Acts 1971, 62nd Leg., p. 455, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.356. Payment of Assessments

All assessments shall be paid in installments at the times fixed by the board. If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown.

[Acts 1971, 62nd Leg., p. 456, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.357. Collection of Assessments By Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector of taxes, or other person designated by the board, shall collect all assessments for maintenance and operating expenses made under the provisions of this subchapter.

(b) The assessor and collector of taxes shall give bond in an amount determined by the board, conditioned upon the faithful performance of his duties and accounting for all money collected.

(c) The assessor and collector of taxes shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week. He shall use duplicate receipt books, give a receipt

for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district.

[Acts 1971, 62nd Leg., p. 456, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.358. Contracts With Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) The contract is not a waiver of the lien given to the district under Section 55.359 of this code against the crops of a person using water for the service furnished to him.

(c) If a person irrigates more land than his contract specifies, he shall pay for the additional service under the provisions of this subchapter.

(d) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract.

[Acts 1971, 62nd Leg., p. 456, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.359. Lien Against Crops

(a) The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessments, interest, and collection or attorney's fees.

(b) When the district obtains a water supply under contract with the United States, the board may, by resolution entered in their minutes and with the consent of the secretary of the interior, waive the lien in whole or in part.

[Acts 1971, 62nd Leg., p. 456, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.360. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their assessments and shall keep posted a correct list of all delinquent assessments. If persons who owe assessments have executed notes and contracts as provided in Section 55.358 of this code, they shall not be placed on the delinquent list until after the maturity of the notes and contracts.

[Acts 1971, 62nd Leg., p. 457, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.361. Water Service Discontinued

If a landowner shall fail or refuse to pay any water assessment when due, his water supply shall be cut off, and no water shall be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all

persons who own or acquire any interest in land for which assessments are due.

[Acts 1971, 62nd Leg., p. 457, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.362. Suits for Delinquent Assessments

Suits for delinquent water assessments may be brought either in the county in which the irrigation district is located or in the county in which the defendant resides. All landowners are personally liable for all assessments provided in this subchapter.

[Acts 1971, 62nd Leg., p. 457, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.363. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees.

[Acts 1971, 62nd Leg., p. 457, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.364. Rights of the United States

If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The Reclamation Extension Act, approved August 13, 1914, and as amended, and all other federal reclamation laws apply. The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the secretary of the interior, and provisions of the contract.

[Acts 1971, 62nd Leg., p. 457, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.365. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses of the district, the balance shall be carried over to the next year.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.366. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed, pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days from the date of assessment.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.367. Land Not Subject to Assessments

If a district fails to furnish sufficient water to irrigate land in the district for two years after its organization, the nonirrigated land is relieved of all assessments and charges except taxes until the district constructs the necessary canals and furnishes the necessary water to irrigate the land.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.368. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.369. Fixed Charges for Maintenance Expenses

If maintenance charges are based on the quantity of water used, a fixed charge may be made on all land or water connections entitled to receive and use water. An additional charge may be made, or a graduated scale adopted, for the use of more water than that covered by the minimum charge. The board may install proper measuring devices.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.370. Charge to Cities and Towns

If a district includes a city or town or contracts with a city or town to supply water to it, the charge for the use of water and the time and manner of payment shall be determined by a standing order of the board.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.371. Authority to Determine Rules and Regulations

The directors may adopt, alter, and rescind rules, regulations, and standing and temporary orders which do not conflict with the provisions of this chapter and which govern:

- (1) methods, terms and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing of water to persons who did not apply for it before the date of assessment; and
- (6) furnishing of water to persons who wish to take water for irrigation in excess of their origi-

nal applications or for use on land not covered by their original applications.

[Acts 1971, 62nd Leg., p. 458, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.372 to 55.400 reserved for expansion]

SUBCHAPTER I. SUPPLYING WATER TO MILITARY CAMPS

§ 55.401. Authority of Districts With Military Base to Issue Bonds

Any district operating under Article XVI, Section 59, of the Texas Constitution, which contains all or part of a United States military camp or base may issue negotiable revenue bonds to provide funds for acquiring or constructing filtration and pumping equipment, pipelines, and other facilities for supplying water to military camps or bases.

[Acts 1971, 62nd Leg., p. 459, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.402. Bond Election

The district may issue negotiable revenue bonds with a total par value of not more than \$100,000 without the necessity of holding an election, but it may not issue bonds with a total par value of more than \$100,000 unless the bond issue is approved at an election held under the law governing bond elections.

[Acts 1971, 62nd Leg., p. 459, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.403. Interest Rate and Maturity Date

Bonds issued under this subchapter shall mature not more than five years after the date of issuance.

[Acts 1971, 62nd Leg., p. 459, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.404. Security for Bonds

(a) Bonds issued under this subchapter may be secured by all or part of the net revenue to be received from a contract for the sale of water by the district to the United States for use at military camps or bases and from all renewals, extensions, or substitutions of the contract.

(b) In addition, the bonds may be secured by a deed of trust lien on the equipment, facilities, and property acquired or constructed with the funds from the sale of the bonds.

[Acts 1971, 62nd Leg., p. 459, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.405. Approval; Registration

After bonds are authorized under this subchapter but before they are issued, the bonds, the resolution of the board authorizing the bonds to be issued, and other certificates and records relating to the issuance of the bonds shall be submitted to the Attorney General of Texas for his examination. The attorney general shall approve the bonds if they are

issued in accordance with the provisions of this subchapter and the constitution, and the bonds shall be registered with the comptroller.

[Acts 1971, 62nd Leg., p. 459, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.406. Validity of Bonds

After bonds are approved by the attorney general and registered with the comptroller, they shall be held valid and binding in any action, suit, or proceeding in which their validity is questioned. In any action brought to enforce collection of the bonds, the certificate of approval by the attorney general, or a certified copy of the certificate, shall be admitted as evidence of the validity of the bonds. The only defense which can be offered against the validity of the bonds is forgery or fraud.

[Acts 1971, 62nd Leg., p. 459, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.407. Payment of Bonds

The holder of bonds issued under the provisions of this subchapter is not entitled to payment of the bonds from funds derived from taxes levied on property in the district.

[Acts 1971, 62nd Leg., p. 460, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.408. Advertising for Bids

A contract for constructing or acquiring filtration and pumping equipment, pipelines, or other facilities to supply water to military camps or bases may be awarded only after advertising for bids for a period of time to be determined by the board. The advertisement for bids shall be published in a newspaper of general circulation in the district at least one time not less than 10 days before awarding the contract.

[Acts 1971, 62nd Leg., p. 460, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.409 to 55.420 reserved for expansion]

SUBCHAPTER J. GENERAL FISCAL PROVISIONS

§ 55.421. Construction and Maintenance Fund

The expenses, debts, and obligations incurred in creating, establishing, and maintaining the district shall be paid from the construction and maintenance fund. The construction and maintenance fund shall consist of money received by the district from the sale of bonds or from other sources provided by this chapter.

[Acts 1971, 62nd Leg., p. 460, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.422. Maintenance and Operating Fund

(a) The district shall create a maintenance and operating fund which shall consist of any money collected by assessment or other methods for the

maintenance and operation of property owned by the district and for temporary rent owed to the United States.

(b) The district shall pay all operating expenses and any balance due on construction work, extensions, and improvements from the maintenance and operating fund with warrants executed in the manner provided in this chapter.

(c) If the district intends to enter into a contract with the United States for the construction of the irrigation system, the expenses, debts, and obligations may be paid from the maintenance and operating fund.

[Acts 1971, 62nd Leg., p. 460, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.423. District Vouchers

Except as provided in Section 55.112 of this code, vouchers issued by the district shall include a reference to the book and page number which authorize the expenditure and shall be signed by at least four members of the board. The vouchers shall be issued from a regular duplicate book containing a duplicate of the voucher, which shall be kept by the district.

[Acts 1971, 62nd Leg., p. 460, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.424. District Depository

(a) The board shall select a depository for the district in the manner provided for selection of a county depository, and the board, in selecting the depository, shall act in the same capacity and perform the same duties as provided by law for the county judge and county commissioners in selecting a county depository.

(b) The duties of the district depository shall be the same as provided by law for county depositories.

[Acts 1971, 62nd Leg., p. 461, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.425. Selecting a Bank as Depository in Which a District Director Has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the remaining members of the board, if they constitute a majority, may select the bank as the district depository and approve the bond.

(b) Before the order of the board selecting the bank as the depository and approving the bond is effective, a copy of the order must be filed with the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, the bank will not become the district depository, and new bids shall be re-

quested and another bank selected as district depository.

[Acts 1971, 62nd Leg., p. 461, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 5, eff. May 31, 1971.]

§ 55.426. Report of the District Depository

(a) The district depository shall make a report each month of money it receives and pays out on behalf of the district. This report together with the vouchers shall be filed in the district's records which are in the depository's vault, and a copy of the report shall be furnished to the district's board.

(b) The report shall be available for inspection by taxpayers and residents of the district.

(c) The records shall be kept as property of the district and shall be delivered to the successor of the depository.

[Acts 1971, 62nd Leg., p. 461, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.427. District Records and Accounts

The board shall keep a record of its meetings and proceedings and shall have a complete book of accounts kept for the district.

[Acts 1971, 62nd Leg., p. 461, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.428. Protection and Custody of Records and Documents

The board shall keep the contracts, records and notices, duplicate vouchers, duplicate receipts, and accounts and records of the district in a fireproof vault or safe, and shall deliver them to their successors in office. These records and other documents are the property of the district.

[Acts 1971, 62nd Leg., p. 461, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.429. District Audit

(a) Except as provided in Subsection (c) of this section, on September 1 of each year the board shall select a competent auditor for the district who shall file an audit report by November 1 of each year.

(b) The auditor shall examine the accounts, books, and reports of the depository, the assessor and collector, and the board and shall include a full report of his findings in the audit report. A copy of the report shall be filed with the depository, the board and the county clerk of the county in which the district is located.

(c) In districts which adopt the calendar year as the fiscal year, the auditor shall be appointed by January 15 following the end of the year and his report shall cover the preceding calendar year.

[Acts 1971, 62nd Leg., p. 461, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.430. Adopting the Calendar Year as the Fiscal Year

The board, by an order entered in its minutes, may adopt the calendar year as the fiscal year, and in districts adopting the calendar year, the board's annual report shall cover the calendar year, and shall be filed by January 30th of the succeeding year.

[Acts 1971, 62nd Leg., p. 462, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.431 to 55.450 reserved for expansion]

SUBCHAPTER K. BORROWING MONEY

§ 55.451. District May Incur Debt for District Purposes

(a) The district may incur debt evidenced by contract, notes, warrants, or bonds to pay any debt or obligation incurred for any lawful purpose.

(b) The purposes for which debt may be incurred, include:

(1) purchasing, constructing, securing, or acquiring any reservoir, rights-of-way, water rights, and any property, plants, and improvements;

(2) carrying out any of the purposes for which the district was created;

(3) maintaining and operating property, plants, and improvements of the district; and

(4) constructing repairs, extensions, and other improvements on the property.

[Acts 1971, 62nd Leg., p. 462, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.452. Adopting Method for Payment of Debts

(a) When a district incurs a debt or obligation, it shall provide for payment of the debt or obligation by levying, assessing, and collecting either a general ad valorem tax or a tax on a benefit basis.

(b) Any district which has previously issued bonds or obligations payable on either basis may adopt a different basis of taxation in the creation of an additional debt or obligation.

(c) Each debt or obligation shall be paid in the manner provided at the time it was incurred.

[Acts 1971, 62nd Leg., p. 462, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.453. Election

(a) Before any debt is incurred under this subchapter, the district shall submit to the voters of the district the proposition of whether or not the debt should be created. The proposition shall also state the method of taxation to be used to pay principal and interest on the debts.

(b) Notice of the election and the conduct of the election shall be in the manner provided by law for holding elections in the district.

(c) The proposition is adopted if it is approved by a majority of the persons voting in the election.

[Acts 1971, 62nd Leg., p. 462, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.454. Incurring Debt Without Voter Approval

None of the provisions of this subchapter shall prevent the board from creating any debt or obligation without voter approval if the debt or obligation is created to defray ordinary maintenance and operating expenses or if the debt or obligation is to be retired from current revenues.

[Acts 1971, 62nd Leg., p. 463, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.455. Taxes on Uniform Basis

(a) Any district which has the principal function of furnishing water for irrigation in the district may provide for the payment of principal and interest on any debts or obligations by levying taxes on land in the district on an equal or uniform basis with an equal charge per acre on each acre of land to be irrigated.

(b) The tax collector shall prepare a special tax roll showing each tract of land in the district, the number of acres in each tract, the total assessment of benefits on each tract, and the amount to be paid each year on each tract, and the roll shall be prepared or amended annually.

(c) The tax roll shall be examined, corrected, and approved by the board.

(d) The tax roll shall be prepared at the time and in the manner provided in the Property Tax Code. The valuation fixed on property shall be the assessment charge against each acre of land at the time the debt or obligation is incurred.

[Acts 1971, 62nd Leg., p. 463, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 55.456. Obtaining Loan When Bonds Cannot be Sold

If the district has any bonds which were issued under the provisions of this code but which cannot, in the opinion of the board, be sold on terms which are advantageous to the district, the district may obtain a loan in an amount of not more than the amount of the unsold bonds. The money may be used for any of the purposes for which the bonds were issued, and the bonds may be pledged as a guarantee or assurance that the loan will be paid. The amount of bonds pledged may not exceed the amount of the loan by more than 15 percent.

[Acts 1971, 62nd Leg., p. 463, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.457. Using Revenue From Sale of Water, Power, and Other Services to Pay Debts

(a) The district may fix charges for the use and sale of water, power, and other services to pay debts and to accomplish other lawful purposes of the district.

(b) The district may borrow money for any purpose in the manner provided in this subchapter and pledge for payment of these debts, income and revenue from the sale of water, power, and other services sufficient in amount to pay principal, interest, and other charges which may accrue.

[Acts 1971, 62nd Leg., p. 463, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.458. Loan Fund

(a) The board may pay or contract to pay on any bonds which it has sold or pledged, in addition to taxes, other funds derived from:

- (1) water charges for use of water in the district;
- (2) sale or supply of water to any city, town, municipal corporation, district, or land or user of water outside the boundaries of the district;
- (3) sale of water to any commercial or industrial enterprise;
- (4) sale of hydroelectric power; or
- (5) any or all of these sources of revenue.

(b) The board shall fix the amount to be derived from these sources for this purpose and shall enforce and collect it in the same manner provided to collect charges or assessments for maintenance and operation. All liens and remedies provided by law to secure and enforce the collection of charges and assessments for maintenance and operation of the district are applicable to securing and enforcing the collection of these funds.

(c) Money collected under this section shall be kept in a separate fund called the "loan fund" and shall be used only for the purpose of paying the principal and interest on the bonds for as long as the bonds remain unpaid.

(d) The charge created by this section is an additional and distinct charge and a source of income of the district over and above its income for maintenance and operation and other purposes.

(e) After the loan fund is created and pledged, the action of the board in fixing the amount of the charge and in fixing the total annual charges for maintenance and operation may not be reviewed by the commission regardless of any law to the contrary.

[Acts 1971, 62nd Leg., p. 464, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 26, eff. June 10, 1981.]

[Sections 55.459 to 55.490 reserved for expansion]

SUBCHAPTER L. ISSUANCE OF BONDS

§ 55.491. Bond Election

After the district is created, the members of the board are qualified, the maps, profiles, specifications, and estimate are filed, and after the assessor and collector has made and returned the assessment roll, the board may order a bond election to be held in the district at the earliest possible legal time.

[Acts 1971, 62nd Leg., p. 464, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.492. Content of Notice

(a) The notice of the election shall include:

- (1) the maximum amount of bonds to be issued;
- (2) the maximum interest rate on the bonds;
- (3) the maximum maturity date of the bonds;
- (4) a summary of the engineer's estimate of the cost of constructing proposed improvements and purchasing existing improvements with additions;
- (5) a substantial statement of the proposition; and
- (6) the time and place or places for holding the election.

(b) If the election is for the purpose of voting on a contract with the United States, the notice shall include the maximum amount of money to be paid for construction purposes exclusive of penalties and interest.

[Acts 1971, 62nd Leg., p. 464, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.493. Publication of Notice

The secretary of the board, on order of the board, shall post notice of the bond election at the courthouse door in the county in which the district is located and at four public places in the district for at least 20 days before the day of the election. Also, the secretary shall publish the notice in the manner provided in Section 55.609 of this code.

[Acts 1971, 62nd Leg., p. 465, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.494. Conduct of Bond Election

The board shall select a polling place in each voting precinct or part of a voting precinct located in the district and shall appoint two judges, one of whom shall be the presiding judge, and two clerks for each polling place designated in the order.

[Acts 1971, 62nd Leg., p. 465, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.495. Ballots

(a) The board shall provide one and one-half times as many ballots for the election as there are qualified property taxpaying electors in the district as shown on the county tax rolls.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The issuance of bonds and the levy of a tax to pay for the bonds." This is the only proposition which may appear on the ballot.

(c) If the election is for the purpose of voting on a contract with the United States, the ballots shall be printed to provide for voting for or against the following proposition: "The contract with the United States and levy of taxes to make payments under the contract." This is the only proposition which may appear on the ballot.

[Acts 1971, 62nd Leg., p. 465, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.496. Returns; Result

(a) Immediately after the election, the presiding judge of each polling place shall transmit to the secretary of the district the result of the election in the manner provided by law for general elections. The secretary shall keep the results in a safe place and deliver them together with the returns from each polling place to the board.

(b) At a regular meeting or special meeting the board shall canvass the returns and declare the result of the election.

(c) If the canvass of the returns shows that the bond issue or the contract with the United States and the tax levy were approved, the board shall declare the result to be in favor of the proposition and shall enter the results in the minutes.

[Acts 1971, 62nd Leg., p. 465, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.497. Necessary Vote

(a) In a district operating under the authority of Article III, Section 52, of the Texas Constitution, a two-thirds vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States.

(b) In a district operating under the authority of Article XVI, Section 59, of the Texas Constitution, a majority vote of persons voting in the election is required to adopt a proposition to issue bonds or to enter into a contract with the United States.

[Acts 1971, 62nd Leg., p. 465, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.498. Ordering Issuance of Bonds

After the vote is canvassed and a favorable result is declared, the board shall make and enter an order authorizing the issuance of bonds or the execution of a contract with the United States.

[Acts 1971, 62nd Leg., p. 466, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.499. Amount of Bonds

The bonds shall be sufficient in amount to pay for the proposed improvements together with necessary incidental expenses connected with the improve-

ments, but the amount shall not be more than the amount specified in the order and notice of election. The total amount of the bonds shall include:

- (1) the amount of the engineer's estimate;
- (2) incidental expenses;
- (3) organization expenses; and
- (4) cost of additional work caused by any change or modification made by the directors.

[Acts 1971, 62nd Leg., p. 466, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.500. Limitation of Indebtedness

In districts organized under Article III, Section 52, of the Texas Constitution, the amount of bonds or the amount of the contract indebtedness with the United States may not be more than one-fourth of the actual assessed value of the real property in the district as shown by an assessment made for this purpose or by the last annual assessment made under this chapter. This limitation does not apply to districts operating under the authority of Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 466, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.501. Special Interest Procedure

(a) The maximum amount of bonds issued by a district may include a sufficient sum to pay the first one, two, or three years' interest to accrue on the bonds, and no taxes shall be levied against property located in the district for this period except for a sufficient tax to pay notes provided for in Section 55.038 of this code.

(b) The board may designate the period of interest to begin either with the date of the bonds fixed in the order which authorizes their issuance or from the date or dates of the actual sale, issuance, and delivery of the bonds or any installments.

(c) Any money left in the interest fund at the end of the designated period still may be used to pay interest on the bonds.

[Acts 1971, 62nd Leg., p. 466, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.502. Formal Requirements of Bonds

(a) The board shall issue bonds in the name of the district, and the president shall sign the bonds, the secretary shall attest to them, and the district's seal shall be impressed on them.

(b) The bonds shall be issued in denominations of not less than \$100 nor more than \$1,000 each.

(c) The bonds shall be payable annually or semi-annually and shall mature not more than 40 years after they are issued.

(d) The bonds may be issued to mature in serial form at any date which does not come later than the date specified in the notice of election and may bear any rate of interest which is not more than the rate of interest specified in the notice.

(e) The terms of the bonds shall include the time, place, manner, and conditions of payment and the interest rate which are ordered by the board.

[Acts 1971, 62nd Leg., p. 466, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.503. Texas Department of Water Resources to Investigate and Report on Districts Issuing Bonds

(a) The executive director shall investigate and report on the organization and feasibility of all districts issuing bonds under Texas law.

(b) Any district which desires to issue bonds shall submit to the commission a written application for investigation, together with a copy of the engineer's report and a copy of the data, profiles, maps, plans, and specifications prepared in connection with the report.

(c) The executive director shall examine these documents and shall visit the project and carefully inspect it, and may request and shall be supplied with additional data and information necessary to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and furnish a copy to the board of directors of the district.

(e) If the commission finally approves or refuses to approve the project or the issuance of the bonds for any improvement, it shall make a full written report, file the report in its office, and furnish a copy of the report to the board of directors of the district.

[Acts 1971, 62nd Leg., p. 467, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 55.504. Suit to Determine Validity of Bonds or Contract

(a) Before any bonds are offered for sale, the district shall bring suit in any district court within the judicial district in which the district is located or in any district court in Travis County to determine the validity of the bonds. On request of the secretary of interior, any district entering into a contract with the United States shall bring suit in one of the same courts to determine the validity of the contract.

(b) The action shall be in the nature of a proceeding in rem, and jurisdiction over all interested parties may be obtained by publishing notice once a week for at least two consecutive weeks in a newspaper with general circulation in the county in which the district is located. If there is no newspaper published in the county, the notice shall be published in the county nearest to the district in which a newspaper is published.

[Acts 1971, 62nd Leg., p. 467, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.505. Notice to Attorney General

(a) Notice of a validation suit shall be served on the attorney general in the manner provided for serving a notice in civil suits.

(b) The attorney general may waive service if he is furnished a full transcript of the proceedings held in the formation of the district and held in connection with the issuance of the bonds or the authorization of the contract with the United States and is furnished a copy of the contract.

[Acts 1971, 62nd Leg., p. 467, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.506. Attorney General to Examine Proceedings and File Answer Tendering Issue

The attorney general shall make a careful examination of the district's organizational proceedings and proceedings held in connection with the issuance of bonds or the authorization of a contract with the United States and shall require any further evidence and make any further investigation he considers necessary. The attorney general shall then file an answer tendering the issue of whether or not the bonds are legal and binding obligations of the district or whether or not the contract with the United States is legal and binding on the district. This issue shall be tried and determined by the court and a judgment entered on the finding.

[Acts 1971, 62nd Leg., p. 468, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.507. Right of Persons to Intervene and Participate in Suit

At the trial of a validation suit the court may permit persons having an interest in the issues to be determined to intervene and participate in the trial of the issues.

[Acts 1971, 62nd Leg., p. 468, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.508. Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(51), eff. Aug. 31, 1981

§ 55.509. Judgment Rendered

(a) If the judgment of the court in a validation suit is against the district, the district may accept the judgment and may correct the error pointed out in the proceedings in the manner directed by the court.

(b) After the corrections are made, the judgment of the court shall be rendered showing that the corrections have been made and that the bonds or the contract is a binding obligation on the district.

(c) The final judgment, when it is entered, is res judicata in any case arising in connection with the bonds or their interest or in connection with the collection of money required under the contract with the United States and in all matters relating to the validity of the organization of the district, the

district's bonds, or the contract with the United States.

[Acts 1971, 62nd Leg., p. 468, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.510. Court's Decree

(a) After the district court enters a final judgment in a validation suit, the clerk of the court shall make a certified copy of the decree which shall be a part of the orders and decree connected with the election.

(b) The court's decree shall be filed with the comptroller and he shall record the decree in a book kept for that purpose.

(c) The certified copy of the decree or a certified copy of the record made by the comptroller shall be received as evidence in any litigation which may affect the validity of the bonds or contract with the United States and shall be conclusive evidence of the validity.

[Acts 1971, 62nd Leg., p. 468, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 55.511, 55.512. Repealed by Acts 1971, 62nd Leg., p. 1769, ch. 518, § 10, eff. May 31, 1971

§ 55.513. County Clerk's Fees

The county clerk is entitled to receive:

- (1) for registering the bonds, 10 cents for each bond which is registered;
- (2) for entering the payment of a bond, 10 cents; and
- (3) for recording district instruments required to be recorded and for which no fee is provided, the same fees provided by law for recording deeds.

[Acts 1971, 62nd Leg., p. 469, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.514. Sale of Bonds

(a) After the bonds are issued and registered by the comptroller, the board shall offer the bonds for sale and shall sell them on the best terms and for the best possible price.

(b) After all the bonds are sold, the board shall pay to the district depository all money received from the sale.

(c) The board may exchange the bonds for property to be acquired by purchase under contract or in payment of the contract price for work to be done for the use and benefit of the district.

[Acts 1971, 62nd Leg., p. 469, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.515. Emergency Loans and Interim Bonds

(a) The district may create emergency loans and issue interim bonds for the purposes, in the manner, and under the restrictions and limitations provided in Sections 51.444-51.449 of this code.

(b) It is the purpose of this section to confer on the district the same power and authority with respect to emergency loans and issuance of interim bonds as that conferred by law on water control and improvement districts.

[Acts 1971, 62nd Leg., p. 469, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.516. Tax Levy

(a) After bonds have been voted, the board shall levy a tax on all property in the district sufficient to pay the interest on the bonds together with an additional amount to be placed in the sinking fund to discharge and redeem the bonds at maturity, and the board shall annually levy or have assessed and collected taxes on all property in the district sufficient to pay for the expenses for assessing and collecting the taxes.

(b) The board may issue the bonds in serial form or to be paid in installments.

(c) The tax levy shall be sufficient to pay the interest on the bonds, to meet the proportional amount of the principal of the next maturing series of the bonds, and to pay expenses of assessing and collecting the taxes for the year.

(d) If a contract is entered into with the United States, the board shall levy a tax sufficient to meet all installments as they are due and to pay interest. The directors shall make an annual levy until the contracts and obligations are discharged.

[Acts 1971, 62nd Leg., p. 469, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.517. Adjustment of Tax Levy

The tax which is levied in connection with the original bond issue shall remain in force for that purpose until a new levy is made. The board may, from time to time, increase or diminish the tax for the purpose of adjusting the tax to the taxable values of taxable property in the district and the amount to be collected, and the increase or decrease in the tax shall be sufficient to provide enough money in the interest and sinking fund to make annual payments on outstanding bonds.

[Acts 1971, 62nd Leg., p. 470, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.518. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall consist of all taxes collected under the provisions of this chapter for this fund.

(b) Money in the interest and sinking fund shall be paid out only:

- (1) to satisfy and discharge interest on the bonds;
- (2) to pay the bonds;
- (3) to defray the expense of assessing and collecting the tax; and
- (4) to pay principal and interest due to the United States under a contract with the district

under which bonds have not been deposited with the United States.

(c) The board shall order money from the fund to be paid out by warrants drawn as provided in this chapter. When funds are paid out, the depository shall receive and cancel the interest coupon or bond paid, and the interest coupon or bond shall be delivered to the board to be cancelled and destroyed.

[Acts 1971, 62nd Leg., p. 470, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.519. Investment of Sinking Funds

The board may invest sinking funds of the district in bonds of the United States, the State of Texas, any county, any incorporated city or town, any independent school district, or any school district authorized to issue bonds, or they may invest the funds in irrigation or water improvement bonds. The board may not purchase any bonds which under their terms would mature subsequent to the maturity date of bonds for which the sinking fund was created.

[Acts 1971, 62nd Leg., p. 470, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.520. Refunding Bonds

(a) The board of a district which has issued bonds under the provisions of this chapter, by resolution, may issue refunding bonds to replace the original bonds. The refunding bonds may be issued in any amount, in any denomination, and for any period of maturity and may bear any rate of interest provided in the board's resolution.

(b) The refunding bonds shall be issued subject to the limitations provided in this subchapter for the issuance of bonds.

(c) The refunding bonds may be exchanged for the original bonds at the original bonds' face value or at a discount, or the refunding bonds may be sold and the net proceeds applied to the purchase of the original bonds at face value or at a discount.

[Acts 1971, 62nd Leg., p. 470, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.521. Registering Refunding Bonds

(a) The comptroller may not register any refunding bonds until the original bonds for which the refunding bonds are issued are presented to him for cancellation or until a contract for the purchase of a corresponding number of the original bonds has been entered into and filed with the comptroller.

(b) After the refunding bonds are registered, the comptroller shall keep them in his possession until the original bonds are surrendered to him and cancelled by him, at which time he shall deliver the new bonds to the proper party or parties.

(c) The original bonds may be presented for payment in installments and an equal amount of re-

funding bonds registered and delivered as provided in this subchapter.

[Acts 1971, 62nd Leg., p. 471, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.522. Issuing Refunding Bonds for the Same Amount and With the Same Maturity Date as the Original Bonds

(a) Refunding bonds for the same amount and with the same maturity date as the bonds which they are to replace may be authorized by resolution of the board and issued without an election to approve them.

(b) These refunding bonds shall be registered by the comptroller in the manner provided in Section 55.521 of this code after a copy of the resolution providing for the issuance of the refunding bonds and the cancellation of the original bonds is filed with the comptroller.

(c) After the original bonds are cancelled and the refunding bonds are registered by the comptroller, the refunding bonds are valid and binding obligations of the district without further proceedings and have the same force, validity, and effect as the original bonds which they have replaced.

[Acts 1971, 62nd Leg., p. 471, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.523. Issuing Refunding Bonds Which Place a Greater Burden on the District

If the district issues refunding bonds for a greater amount, for a greater rate of interest, or for a longer period of maturity than the bonds which they are to replace or if the refunding bonds in any other respect create a greater burden on the district, the district shall submit the question of whether or not it should issue the refunding bonds to the voters of the district.

[Acts 1971, 62nd Leg., p. 471, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.524. Law Governing Refunding Bonds

(a) The provisions of this subchapter governing the election and the issuance, approval, validation, registration, and sale of bonds shall apply to refunding bonds.

(b) Refunding bonds shall be registered and delivered in the manner provided in Section 55.521 of this code.

[Acts 1971, 62nd Leg., p. 471, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.525. Limiting District's Power to Incur Debt

(a) The board of any district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the power of the district to incur debt and issue bonds in the manner provided by this subchapter.

(b) The board may adopt a resolution declaring that for a period of not more than 10 years the

district may not issue bonds in excess of 25 percent of the assessed value of taxable property of the district according to the last assessment for district purposes.

[Acts 1971, 62nd Leg., p. 472, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.526. Notice of Limitation of Debt

Once a week for two consecutive weeks in a newspaper published in the district, the board shall publish notice of the adoption of a resolution to limit the district's power to incur debt. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 10 percent of the qualified property taxpaying electors of the district is presented within 30 days after the first publication of notice.

[Acts 1971, 62nd Leg., p. 472, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.527. Limitation Election

(a) If a petition is filed under Section 55.526 of this code, the limitation of the power to incur debt will not take effect unless it is approved at a general or special election held in the district. The election will be held in the manner provided for holding other general and special elections in the district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Limiting during the term of _____ years, the maximum debt of the district to 25 percent of the assessed value of the real property."

[Acts 1971, 62nd Leg., p. 472, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.528. Operating Under a Limitation on Power to Incur Debt

(a) If no petition is presented under Section 55.526 of this code or if the limitation on the power to incur debt is approved at the election, the district, during the limitation period, may not issue bonds under any statute or the constitution in excess of the limited amount except to complete construction work for which bonds may be issued within the limitation.

(b) The board shall issue bonds in excess of the limitation to complete these works only after the commission has approved the plans and specifications of the original and uncompleted works together with the estimates of their cost.

[Acts 1971, 62nd Leg., p. 472, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 27, eff. June 10, 1981.]

§ 55.529. Issuing Bonds in Excess of Debt Limitation

(a) If the plans, specifications, and estimates under Section 55.528 of this code are approved by the commission, the district shall publish notice once a week for three weeks that it intends to issue bonds in excess of the debt limitation to complete the

works. The notice shall include the amount of the proposed bond issue and the time when a hearing will be held.

(b) The hearing to issue the additional bonds shall be held not less than 30 days from the date of the first publication of notice, and any property taxpayer, bondholder or other creditor, or interested person may appear and be heard.

(c) If the determination after the hearing is to issue the bonds in the amount stated in the notice, the question of whether or not the bonds should be issued shall be submitted to the voters of the district at an election held in the manner provided by law.

[Acts 1971, 62nd Leg., p. 472, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 28, eff. June 10, 1981.]

§ 55.530. Additional Projects For the District

(a) After district bonds have been authorized or issued or after a contract with the United States has been authorized or executed, if the board thinks it is necessary, it may authorize:

- (1) modifications in the district and its improvements;
- (2) purchase or construction of additional improvements and issuance of additional bonds based on the engineer's report; or
- (3) a supplemental contract with the United States.

(b) Before any of the projects under Subsection (a) of this section are undertaken, the board shall enter its findings in the minutes and shall give notice that an election will be held to approve the issuance of bonds or the execution of a contract with the United States. The election shall be held within the time and the returns made and the result determined in the same manner provided for the original bond election.

[Acts 1971, 62nd Leg., p. 473, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.531. Issuance of Additional Bonds

(a) If an election held under Section 55.530 of this code favors the issuance of additional bonds or execution of a contract with the United States, the board may issue the bonds or negotiate and execute a supplemental contract with the United States in the manner provided in this chapter.

(b) If a contract is made with the United States under Section 55.185 of this code and bonds are not deposited with the United States, the district is not required to issue bonds, and if the district is required to raise funds in addition to the amount of the contract, the district shall issue the bonds only for the additional amount which is needed.

[Acts 1971, 62nd Leg., p. 473, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.532. Funds to Repair Damaged Improvements

(a) If improvements of the district are damaged, the district may issue bonds or notes to secure funds to repair the damage.

(b) The district's notes may not be for a term of more than 20 years. The board may issue the notes in serial form to mature in installments.

(c) Before the notes are issued, the board shall order an election to be held to approve the issuance of the notes and shall give notice of the election in the manner provided for bond elections. The notice shall include the purpose for which the notes are being issued, the rate of interest, the term of the notes, and the time and place of the election.

(d) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Issuance of notes."

(e) The election shall be held and returns made and canvassed in the manner provided for bond elections.

(f) If two-thirds of the persons voting in the election vote in favor of issuing the bonds, the board may issue and sell the bonds for the benefit of the district.

(g) When the notes are issued or sold, the board shall levy a tax to pay interest on the bonds and to create a sinking fund sufficient to pay the interest and the notes before they mature.

[Acts 1971, 62nd Leg., p. 473, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.533. Preferred Lien in Favor of the United States

A lien for the payments due the United States under a contract between the district and the United States under which bonds have not been deposited with the United States shall be a preferred lien to that of any issue of bonds or any series of any issue of bonds subsequent to the date of the contract.

[Acts 1971, 62nd Leg., p. 474, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.534. Default in Paying Principal and Interest on Bonds by a District Obtaining Its Water Supply From the United States

(a) If a district which obtains its water supply from the United States defaults in the payment of principal and interest on bonds issued by the district, the board, if it considers it advisable, may authorize the issuance of bonds to fund or refund the debt including bonds, debt and accrued interest on debt, and interest on notes lawfully issued to pay for construction or acquisition of irrigation and drainage works.

(b) Before any bonds are issued under this section, the district shall submit to the voters of the

district the question of whether or not the bonds should be issued.

(c) The board may issue the bonds either in serial form or in a form which provides for annual payment of principal and interest in a single amount, represented by coupons, and the board may prescribe the form and contents of the bonds and coupons. Amortization of both principal and interest on the bonds shall be accomplished in not more than 40 years from the date the bonds are issued.

(d) If bonds are issued in serial form, they shall be numbered consecutively beginning with one and continuing in numerical order. The bonds shall mature serially in annual amounts which are approximately equal. The board may set the bonds to not less than 5 years nor more than 40 years.

(e) If the bonds provide for the annual payment of principal and interest in a single amount which is represented by coupons, the coupons for the first five years may be for any amount which in the judgment of the board is economically sound and within the ability of the district to pay. For the remainder of the term of the bonds, the coupons shall be paid annually in equal amounts which are sufficient to liquidate the remainder of the bonds within 40 years from the date the bonds were issued.

(f) Any funding or refunding bonds issued under this section shall be negotiable.

(g) The district is not bound by the provisions of Sections 55.504-55.505 of this code, and the exercise of the provisions of those sections is left to the discretion of the board. If a suit is instituted, the suit is subject to the provisions and governed by the statutes relating to these suits.

(h) Except as otherwise provided in this section, the laws governing the issuance of bonds and the form and contents of bonds shall apply to bonds issued under this section.

[Acts 1971, 62nd Leg., p. 474, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.535 to 55.580 reserved for expansion]

SUBCHAPTER M. AD VALOREM TAXATION

§ 55.581. Assessment and Collection of District Taxes

The assessor and collector shall assess and collect taxes for the district.

[Acts 1971, 62nd Leg., p. 475, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 55.582 to 55.599. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 55.600. Tax Office

For the convenience of district taxpayers, the assessor and collector shall maintain an office with the board. The office shall serve as a place where taxes may be paid.

[Acts 1971, 62nd Leg., p. 478, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.601. Additional Duties of the Assessor and Collector

The board may prescribe other duties for the assessor and collector which duties shall be performed in the manner prescribed in the board's rules and regulations.

[Acts 1971, 62nd Leg., p. 479, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 55.602, 55.603. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 55.604. Assessment Liens

Assessments made by the board for maintenance and operation of the district are liens against the land on which the assessments were made and remain liens on the land until the assessments are paid. No law which provides for a period of limitation against actions for debt shall apply under this section, and these debts cannot be barred by limitation.

[Acts 1971, 62nd Leg., p. 479, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 55.605 to 55.619. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Former § 55.610 was amended by repealing subsec. (c) by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(52).

§ 55.620. General Powers and Regulations

(a) No district may become a party to, purchase, hold under, assign, seek to enforce, or receive benefits from a contract between a landowner and a private canal company which was entered into before the district was created. Rights and privileges owned or possessed by the district are those arising or inherent in the district under this chapter.

(b) The district may not:

(1) acquire or enforce any lien against the land which was fixed by a contract entered into before the district was created;

(2) prosecute or have prosecuted any suit to recover water taxes or assessments which accrued before the district was created;

(3) foreclose any lien on land for unpaid water taxes or assessments which accrued before the district was created;

(4) avail itself of any rights under a private contract relating to the land which contract was entered into before the district was created; and

(5) be held liable for the private contract.

(c) The two-year statute of limitation and the provisions of this section may be pleaded as a bar to an action to recover water rents or other assessments which accrued on land in the district before the district was created.

[Acts 1971, 62nd Leg., p. 482, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 55.621 to 55.624. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections enacted the Property Tax Code, constituting Title 1 of the Tax Code.

[Sections 55.625 to 55.650 reserved for expansion]

SUBCHAPTER N. TAXATION ON A BENEFIT BASIS**§ 55.651. Election to Determine Method of Taxation**

(a) A district which operates under the provisions of Article XVI, Section 59, of the Texas Constitution, may, at the time the district is created or before bonds are issued, submit to the voters of the district the question of whether the district will levy, assess, and collect taxes on the ad valorem basis or on the benefit basis.

(b) The question shall be presented to the voters at the time and in the manner provided by the board.

(c) The ballots for the election shall be printed to provide for voting for or against the following proposition: "The levy of taxes on the benefit basis instead of the ad valorem basis."

(d) The election shall be governed by the provisions of this chapter.

(e) If a majority of the persons voting in the election favor the proposition, the district shall levy, assess, and collect its taxes on the benefit basis.

[Acts 1971, 62nd Leg., p. 484, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.652. Assessment Record

When necessary, the board shall apportion and assess the benefits conferred on property in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property may be more than the benefit which accrues to the property from the

organization, operation, and maintenance of the district and its improvements.

[Acts 1971, 62nd Leg., p. 484, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.653. **Notice of Taxes**

After the board makes the record specified in Section 55.652 of this code, the board shall mail to each property owner whose name appears in the record, notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax.

[Acts 1971, 62nd Leg., p. 484, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.654. **Decision After Hearing**

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable.

[Acts 1971, 62nd Leg., p. 484, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.655. **Applicable Law**

The provisions of this chapter relating to levy, assessment, and collection of taxes which are not inconsistent with the provisions of this subchapter shall apply.

[Acts 1971, 62nd Leg., p. 484, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.656. **Districts Adopting Benefit Plan of Taxation**

In any district other than a district operating under a contract with the United States which is operating under the provisions of Article XVI, Section 59, of the Texas Constitution, and which adopted the assessment of benefit plan of taxation, tax values shall be fixed, levied, assessed, equalized, and collected in the manner provided in Sections 55.657-55.669 of this code.

[Acts 1971, 62nd Leg., p. 484, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.657. **Commissioners of Appraisalment**

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisalment. The commissioners shall be freeholders but not owners of land within the district which they represent.

[Acts 1971, 62nd Leg., p. 485, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.658. **Compensation of Commissioners**

On approval by the board, each commissioner is entitled to receive \$10 a day for each day he actually serves, plus all necessary expenses.

[Acts 1971, 62nd Leg., p. 485, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.659. **Notice of Appointment and Meeting**

Immediately after the commissioners of appraisalment are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners.

[Acts 1971, 62nd Leg., p. 485, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.660. **First Meeting of Commissioners**

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon thereafter as possible.

(b) At the meeting the commissioners shall take an oath to faithfully and impartially discharge their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice-chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisalment and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties.

[Acts 1971, 62nd Leg., p. 485, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.661. **Assistance For Commissioners**

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties, they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties.

[Acts 1971, 62nd Leg., p. 485, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.662. **Viewing Land and Other Property and Improvements in District**

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and the public roads, railroads, rights-of-way, and other property and improvements located in the district and shall assess the amount of the benefits and damages that will accrue to the land, roads, railroads, rights-of-way, or other property or improvements in the district from the construction of the improvements.

[Acts 1971, 62nd Leg., p. 485, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.663. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

(1) the name of the owner of each tract of land which is subject to assessment;

(2) a description of the property;

(3) the amount of the benefits or damages assessed on each tract of land;

(4) the time and place at which a hearing will be held on the report to hear objections; and

(5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The date set in the report for the hearing may not be earlier than 20 days after the report is filed.

[Acts 1971, 62nd Leg., p. 486, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.664. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary also shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

(1) the time and place of the hearing;

(2) that the commissioners' report has been filed;

(3) that interested persons may examine the report and make objections to it; and

(4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit also shall be filed with the commissioners of appraisal and the clerk of the commissioners court.

[Acts 1971, 62nd Leg., p. 486, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.665. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land which is affected by the report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and form opinions on the objections submitted and

for the objections which are sustained, the commissioners may make necessary changes and modifications in the report.

[Acts 1971, 62nd Leg., p. 486, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.666. Witnesses at the Hearing

At the hearing, interested parties not only may appear in person or by attorney, but are entitled, on demand, to have the chairman of the commissioners issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses.

[Acts 1971, 62nd Leg., p. 486, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.667. Costs of Hearing

The commissioners may adjudge and apportion the cost of the hearing in any manner they consider equitable.

[Acts 1971, 62nd Leg., p. 487, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.668. Commissioners' Decree

(a) After the commissioners have made a final decision based on the hearing, they shall issue a decree confirming their report insofar as it remains unchanged, and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to land and other property in the district are final and conclusive.

[Acts 1971, 62nd Leg., p. 487, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.669. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of land and other real property in the district in proportion to the net benefits to the land or other property stated in the final judgment and decree.

[Acts 1971, 62nd Leg., p. 487, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.670. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of a district which is not operating under a contract with the United States may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal

sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system and also the benefit to land in the district that cannot be irrigated by gravity flow.

[Acts 1971, 62nd Leg., p. 487, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.671. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 55.670 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against: "Uniform assessment of benefits of \$_____ per acre on all irrigable land in the district, and the assessment of \$_____ per acre on all nonirrigable land in the district."

(c) The board shall determine the amounts which shall fill the spaces in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted.

[Acts 1971, 62nd Leg., p. 487, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.672. Excluding Nonirrigable Land From District

If the owner of land which is classed as nonirrigable under the uniform acreage valuation objects to the amount of charges fixed against him by the order calling the election or by the result of the election, he may have his nonirrigable land excluded from the district by filing an application for exclusion as provided by law within 10 days after the election is held.

[Acts 1971, 62nd Leg., p. 488, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.673. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all land in the district, and it is not necessary to annually fix the value of the land. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land.

[Acts 1971, 62nd Leg., p. 488, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 55.674. Preparing Tax Rolls

(a) The board shall examine the tax rolls to determine if all property subject to taxation appears on the tax rolls under the proper classification. The board shall add to the tax roll any property which was left off and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board that his property has not been properly classified. The board shall consider the protest, hear evidence, and enter its findings in the minutes.

[Acts 1971, 62nd Leg., p. 488, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 55.675. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 55.676. Law Governing Administration of Benefit Tax Plan

In a district that levies taxes on a benefit basis, the rate of taxation and the assessment and collection of taxes shall be governed by the law relating to ad valorem taxes to the extent applicable.

[Acts 1971, 62nd Leg., p. 488, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 55.677. Irrigating Nonirrigable Land

If land which is classed as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classed as irrigable.

[Acts 1971, 62nd Leg., p. 488, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.678 to 55.710 reserved for expansion]

SUBCHAPTER O. ADDING AND EXCLUDING TERRITORY, AND CONSOLIDATING DISTRICTS

§ 55.711. Excluding Land by Order of Directors

Prior to the issuance of bonds or other fixed obligations by the district, the district may exclude from the district land included within its boundaries that cannot be irrigated by gravity flow from the irrigation system as constructed.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.712. Director's Order

The board shall enter an order in its minutes specifying the land and the owners of the land to be excluded and declaring the land to be in a position that prevents it from being irrigated by gravity

flow from the canals constructed or to be constructed.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.713. Notice of Order

Within 10 days after the board's order excluding land from the district is made and entered in the minutes, notice of the order shall be given by publishing a copy of the order once a week for two weeks in a newspaper of general circulation in the county in which the land is located.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.714. Protest by Owners

(a) If a protest to the exclusion is not filed with the board within 15 days after the final publication of notice, the board's order shall become final on all land included in the order whose owners have not filed a protest.

(b) If the owner of land or any part of land included in the board's order shall file a protest with the board contesting the exclusion of the land and requesting the board not to take the land out of the district, the board shall annul the part of the order which relates to the land, and the land shall remain in the district.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.715. Returning Excluded Land to a District

If land is excluded from a district by order of the board and later the district desires to return the land to the district, the land may be included in the district on application of the owners of the land in the manner provided by this subchapter for adding lands to an established district.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.716. Excluding Land by Petition of Landowner

Before the issuance of bonds by the district, the owner of any land included in the district may file a petition with the board requesting that land owned by him be excluded from the district. The petition shall describe the lands which the petitioners desire to have excluded by metes and bounds and the petition must be acknowledged in the manner and form required by law for the conveyance of real estate.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.717. Petition

When the petition to exclude land from the district is filed with the board, the board shall immediately set the date of the hearing on the petition.

The hearing shall be not later than 20 days from the date the petition is filed.

[Acts 1971, 62nd Leg., p. 489, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.718. Notice of Hearing

The board shall give notice of the hearing on a petition to exclude land by posting written or printed notices of the time and place of the hearing at three public places in the district. The notice shall contain a copy of the petition for exclusion and shall be posted for at least eight days before the hearing.

[Acts 1971, 62nd Leg., p. 490, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.719. Hearing

(a) At the hearing, the board shall hear the petition and all objections to the petition to determine whether or not all or part of the land should remain in the district or be excluded from it.

(b) During the course of a hearing, the board may adjourn the hearing from time to time.

(c) If the board finds that all or part of the land cannot be irrigated by gravity flow from the irrigation system as constructed or to be constructed, or if they find for other reasons that the land should be excluded, they shall grant the petition in whole or in part.

[Acts 1971, 62nd Leg., p. 490, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.720. Rights of Excluded Land and Owners

If the board finds that land should be excluded from the district, the excluded land and the owners of excluded land waive all right to receive water from the district or from the irrigation system of the district.

[Acts 1971, 62nd Leg., p. 490, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.721. Exclusion of Nonagricultural and Nonirrigable Land From District

Land located in the district which is classified as nonagricultural and nonirrigable may be excluded from the district in the manner provided in Sections 51.702-51.713 of this code.

[Acts 1971, 62nd Leg., p. 490, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.722. Directors' Resolution Excluding Land in or Near a City

When there is inside the district land lying inside or adjoining the territorial limits of an incorporated city or town which was not included in the district at the time the district was created, and when the land has been subdivided into town lots and blocks, with streets or other thoroughfares dedicated to the use of the public, and when a map and the dedication have been filed for record with the county clerk of the county in which the land is located, the board

of the district may by resolution discontinue the land as a part of the district. When the resolution is passed, the secretary of the district shall enter it in the minutes of the board of directors of the district, and from that time, the territory is excluded from the district and is no longer entitled to be served with water by the district.

[Acts 1971, 62nd Leg., p. 490, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.723. Owners' Petition to Exclude Land

The owner or owners of the fee of land containing at least 10 acres inside a district, may file a petition with the board asking that the land be excluded from the district. The petition must describe the land by metes and bounds. When the petition is filed with the secretary of the district, the board shall order an election to be held at convenient places in the district within 30 days. If a majority of the qualified electors of the district who vote in the election vote to discontinue the land as a part of the district, the board by order shall declare the land to be excluded from the district. The order must be entered in the minutes of the board. After the order is entered, the land is excluded from the district and is no longer entitled to be served with water by the district.

[Acts 1971, 62nd Leg., p. 490, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.724. Taxes on Excluded Land

If land is excluded from a district at a time when the district has outstanding debt, the excluded land is not released from the payment of its pro rata share of the indebtedness. The district shall continue to levy taxes each year on the property at the same rate levied on other property of the district, until the taxes collected from the excluded land equals its pro rata share of the indebtedness of the district at the time of the exclusion of the land. The taxes so collected shall be charged only with the cost of levying and collecting the taxes, and shall be applied exclusively to the payment of the pro rata share of the indebtedness. The owner of all or part of the excluded land may pay in full, at any time, his pro rata share of the indebtedness, both principal and interest, of the district.

[Acts 1971, 62nd Leg., p. 491, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.725. Adding Land by Petition of Landowner

The owner or owners of land in the vicinity of the district may file a written petition with the board requesting that the land described by metes and bounds in the petition be included in the district.

[Acts 1971, 62nd Leg., p. 491, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.726. Survey of Land to be Added

When the petition to include land in the district is filed with the board, they shall have a survey made

of the land described in the petition and the boundaries marked on the ground.

[Acts 1971, 62nd Leg., p. 491, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.727. Annexation Authority

The directors may include in the district the land described in the petition if it can be irrigated without impairing the irrigation rights of any of the land already in the district.

[Acts 1971, 62nd Leg., p. 491, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.728. Liability of Included Land

If the land described in the petition is included in the district, the land shall immediately become liable for its proportionate share of taxes or bonded indebtedness which has been created against the district and for a reasonable assessment by the board to pay part of maintenance, operation or other necessary expenses.

[Acts 1971, 62nd Leg., p. 491, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.729. Petition and Order by Directors Recorded

If the land described in the petition is included in the district, the petition for inclusion must be signed and acknowledged in the manner provided for acknowledging deeds, and the petition and the order of the board including the land in the district must be recorded in the deed records of the county in which the district is located.

[Acts 1971, 62nd Leg., p. 491, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.730. Adding Land by Petition of 50 Landowners of the Territory

Landowners of a defined area of territory not included in a district may file a petition with the board signed by 50 or a majority of the landowners in the territory requesting that the land described by metes and bounds in the petition be included in the district.

[Acts 1971, 62nd Leg., p. 492, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.731. Hearing on Petition

When a petition to include land in the district is filed with the board, the board by order shall set the time and place of the hearing on the petition. The board may not hold the hearing before the expiration of the 30th day after the day of the order.

[Acts 1971, 62nd Leg., p. 492, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.732. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and in two public places in the territory proposed to be annexed. The notices shall be posted for at least 15 days immediately preceding the day of the hearing.

(c) The secretary also shall publish the notice one time in a newspaper of general circulation in the county. The notice shall be published before the beginning of the 15-day period immediately preceding the day of the hearing.

[Acts 1971, 62nd Leg., p. 492, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.733. Procedure at Hearing

At the time and place stated in the notice, the directors shall hear the petition to annex land to the district in the manner provided by Section 55.027 of this code.

[Acts 1971, 62nd Leg., p. 492, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.734. Resolution to Add Territory

On hearing the petition if the board finds that the addition would be of benefit both to the territory and to the district, it may add the territory to the district by resolution entered on its minutes. The board need not include all the land described in the petition if it finds that a modification or change is necessary or desirable.

[Acts 1971, 62nd Leg., p. 492, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.735. Elections to Ratify Annexation of Land

Annexation of the territory is not final until ratified at separate elections held in the district and in the territory proposed to be added to determine whether the land will be added to the district. If the district has outstanding debts or taxes, the same election shall also determine whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.

[Acts 1971, 62nd Leg., p. 492, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.736. Date of Elections

The board shall order elections to be held on the same day and not more than 30 days after the board enters its resolution tentatively adding the land to the district.

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.737. Notice of Elections

The board shall give notice of the elections to determine whether land shall be added to a district by posting copies of the notice of election at three public places in the district and at least two public places in the territory proposed to be added for at

least 20 days immediately preceding the date of the elections.

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.738. Judges and Clerks to Conduct Elections

(a) The directors shall appoint two judges, one of whom shall be the presiding judge, and two clerks for each polling place in the district, who shall conduct the election in the district and make returns of the election.

(b) The directors shall designate one or more polling places in the territory proposed to be added to the district, and shall appoint two judges, one of them shall be the presiding judge, and two clerks for each of the polling places, who shall conduct the election in the territory and make returns of the election.

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.739. Election Ballots

(a) The ballots for the election to determine whether land shall be added to the district shall be printed to allow for voting for or against: "Addition to water improvement district."

(b) If the question of whether or not the added territory will assume its proportion of the outstanding debts or taxes of the district is submitted, the ballots for the election shall be printed to allow for voting for or against: "Addition to water improvement district and assumption of proportionate part of outstanding debts and taxes."

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.740. Provisions Governing Elections

Except as otherwise provided in this chapter, the manner of holding each of the elections to determine whether land shall be added to a district and the qualifications of persons voting in the elections are governed by the provisions of this chapter applying to the election held to create a district.

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.741. Election Expenses

The district shall pay all expenses of the election held to determine whether land shall be added to the district.

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.742. Vote Required to Approve Annexation of Land

(a) In a district organized and operating under the provisions of Article III, Section 52, of the Texas Constitution, a two-thirds vote of the electors

voting at each election is required to ratify annexation of land to the district.

(b) In a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, a majority vote of the electors voting at each election is required to ratify annexation of land to the district.

[Acts 1971, 62nd Leg., p. 493, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.743. Final Annexation Upon Favorable Vote

If the proposition to add land to a district receives the vote required in Section 55.742 of this code, the land added becomes an integral part of the district on the date of the election. The added land is subject to all laws governing the district from the date of the election and shall bear its pro rata part of all debts or taxes owned, contracted, or authorized by the district to which it is added.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.744. Affairs of the District After Annexation

Annexing land to a district does not in any manner affect the officers, employees, or affairs of the district, but the voters of the added territory have the right to participate in all district matters considered or voted on after the land is added.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.745. Addition of Land in Adjoining County

Land in an adjoining county may be included in a district in the same manner that land in the same county is added to a district.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.746. Annexation of Land Owned by District Directors

(a) A director of a district operating under Article XVI, Section 59, of the Texas Constitution, may have land owned by him annexed to the district under the provisions of this subchapter.

(b) A director seeking to have land which he owns annexed to the district shall not participate in the proceedings of the board to consider the acceptance or rejection of the application. The remaining directors of the district may determine conditions and terms of annexation of a director's land which are not inconsistent with the provisions of this chapter.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.747. Consent Necessary if United States has Contract

No land may be added to a district which is under contract with the United States without the written consent of the secretary of the interior.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.748. Land Which Becomes Part of District as if Originally Included

If land entitled to be served by an established irrigation system is not originally included in the district in the manner provided by law and later is included in the district, it shall become part of the district as if originally included and is entitled to water service on an equal basis with land originally included in the district.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.749. Liability of Lands Added to a District

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit plan of taxation instead of general ad valorem tax. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district.

[Acts 1971, 62nd Leg., p. 494, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.750. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 55.751-55.754.

[Acts 1971, 62nd Leg., p. 495, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.751. Elections to Approve Consolidation

(a) After the directors of each district have agreed upon the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order an election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

[Acts 1971, 62nd Leg., p. 495, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.752. Governing Consolidated Districts

(a) When two or more districts are consolidated, they become one district, except for the payment of debts created prior to consolidation, and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the district to wind up the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next election or name persons to serve as officers of the consolidated district until the next election if all officers of the original districts agree to resign.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current boards shall approve the bond of each new officer.

[Acts 1971, 62nd Leg., p. 495, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.753. Debts of Original Districts

(a) When two or more districts are consolidated, the debts of the original districts are protected and are not impaired.

(b) These debts may be paid by taxes or assessments levied on the land in the original district as if it had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement.

[Acts 1971, 62nd Leg., p. 496, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.754. Taxes of the Original District

(a) After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district.

(b) If the officers of the consolidated district fail or refuse in due time to assess and collect taxes on property in the original district to pay the obligations of the original district, the taxes may be assessed and collected and paid on the obligations

by a receiver acting under orders of a district court. A creditor or five or more taxpayers in the district may bring suit in a district court to have a receiver appointed.

[Acts 1971, 62nd Leg., p. 496, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 55.755 to 55.800 reserved for expansion]

SUBCHAPTER P. DISSOLUTION OF DISTRICT

§ 55.801. Failure to Function

Subject to the provisions of Sections 50.251-50.256 of this code, if any district does not begin to acquire the necessary canals, ditches, flumes, laterals, reservoirs, sites, damsites, pumping plants, or other things necessary to the successful operation of the district or does not diligently pursue the purposes for which it was created within two years after its organization, the district may be dissolved without formal action.

[Acts 1971, 62nd Leg., p. 496, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.802. Rights of Debtors if District Failed to Function

Any person with an interest in the district or a debt owed by the district may collect the debt in the manner provided for the collection of a debt due by any person, association of persons, or corporation. A court of competent jurisdiction may render judgment making the debt a lien against the property of the district and providing for the payment of the debt and judgment in the manner that a judgment for debt is enforced against a city or town that has been dissolved.

[Acts 1971, 62nd Leg., p. 496, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.803. Dissolution Using Procedure for Organization of Districts

If all debts and obligations of the district have been paid and discharged, a district may dissolve voluntarily by the same vote and in the same manner provided in this chapter for the organization of districts. The election shall be held in the manner provided in this chapter for holding elections in the district.

[Acts 1971, 62nd Leg., p. 496, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.804. Dissolution Using Procedure for Abolition of Districts in Chapter 56

A district may dissolve voluntarily in the manner provided for the dissolution of districts in Chapter 56 of this code, and the provisions in that chapter shall control the abolition of the district and the legal consequences of abolition.

[Acts 1971, 62nd Leg., p. 497, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 55.805. Payment of Debts on Dissolution of District

(a) All debts of districts dissolved under the provisions for the dissolution of districts in this subchapter shall be prorated against the lands in the district in accordance with the assessed valuation for the preceding year of the lands owned by each separate landowner, according to the tax rolls in the office of the tax collector of the county in which the land is located.

(b) The pro rata assessments shall be paid within five years from the date of dissolution in five equal annual installments or at any time within the five-year period.

(c) Any allowed claim owned by a landowner against whom a pro rata assessment has been made shall be credited on the liquidation of the assessment. All prior payments made by any landowner of the dissolved district shall be credited on the assessment against him and his land.

(d) The issuance of a receipt for the payment of the assessment by the proper official as provided in Chapter 56 of this code shall release the owner of the assessments and his land from the liens. The receipts may be recorded in the real estate records of the county or counties in which the land of the owner is located.

(e) When the assessment has been paid, the landowner is released automatically from the debt, and his land is released from all liens existing as security for the assessment.

[Acts 1971, 62nd Leg., p. 497, ch. 58, § 1, eff. Aug. 30, 1971.]

CHAPTER 56. DRAINAGE DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

- Sec.
56.001. Definitions.

SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION TO ARTICLE XVI,
SECTION 59, DISTRICT

- 56.011. Creation of District.
- 56.012. Name of Each District.
- 56.013. Area Included in a District.
- 56.014. Petition.
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SUBCHAPTER A. GENERAL PROVISIONS**§ 56.001. Definitions**

In this chapter:

- (a) "District" means any drainage district organized under this chapter.
- (b) "Board" means the governing body of a drainage district.
- (c) "Commissioners court" means the commissioners court of the county in which the district is organized.

[Acts 1971, 62nd Leg., p. 497, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.002 to 56.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT; CONVERSION TO ARTICLE XVI, SECTION 59, DISTRICT**§ 56.011. Creation of District**

A drainage district may be created in the manner prescribed by this subchapter, either under and subject to the limitations of Article III, Section 52, of the Texas Constitution, or under Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 498, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.012. Name of Each District

The name of each district shall include the name of the county in which it is located and each district shall be numbered in consecutive order.

[Acts 1971, 62nd Leg., p. 498, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.013. Area Included in a District

A district may include all or part of any village, town, or municipal corporation, but land included in one district may not be included in any other drainage district.

[Acts 1971, 62nd Leg., p. 498, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.014. Petition

(a) Any person may present a petition to the commissioners court requesting the creation of a district. The petition shall be signed by at least 25

of the resident freehold taxpayers of the proposed district, or by at least one-third of the resident freehold taxpayers of the district if there are less than 75 of them, whose land might be affected by creation of the district.

(b) The petition shall state:

- (1) the necessity, public utility, and feasibility of the proposed district;
- (2) the proposed boundaries of the district; and
- (3) the proposed name for the district.

[Acts 1971, 62nd Leg., p. 498, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.015. Deposit

(a) Any person filing a petition shall deposit with the clerk of the commissioners court \$200 in cash, which shall be held by the clerk until the result of the election to create the district and issue bonds is officially announced.

(b) If the result of the election favors creating the district, the clerk shall return the deposit to the petitioners or their agent or attorney, but if the result of the election is against the creation of the district, the clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney.

[Acts 1971, 62nd Leg., p. 498, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.016. Time of Hearing

At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition at a regular or special meeting of the commissioners court. The hearing must be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

[Acts 1971, 62nd Leg., p. 498, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.017. Notice

(a) The commissioners court shall order the clerk to give notice of the time and place of the hearing on the petition by posting a copy of the petition and order of the commissioners court during the 20-day period immediately preceding the day of the hearing in five public places in the county. The clerk shall post one of the copies at the courthouse door and the four other copies within the boundaries of the proposed district.

(b) The clerk is entitled to receive five cents a mile for each mile necessarily traveled in posting the notices.

[Acts 1971, 62nd Leg., p. 499, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.018. Hearing on the Petition

At the hearing on the petition, any person whose land would be affected by creating the district may

appear before the commissioners court and may contest the creation of the district or contend for its creation. The person may offer testimony to show that the district is or is not necessary and would or would not be a public utility and that creating the district would or would not be feasible or practicable.

[Acts 1971, 62nd Leg., p. 499, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.019. Findings

(a) At the hearing on the petition, if it appears to the commissioners court that drainage of the proposed district is feasible and practicable and is needed and would be conducive to public health or would be a public benefit or a public utility, the commissioners court shall make findings to this effect.

(b) If the commissioners court finds any of the issues in Subsection (a) of this section in the negative, it shall dismiss the petition at the cost of the petitioners.

(c) The findings of the commissioners court shall be recorded.

[Acts 1971, 62nd Leg., p. 499, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.020. Engineer

(a) If the findings of the commissioners court under Section 56.019 of this code favor creating the district, the commissioners court shall appoint a competent civil engineer, who shall be entitled to as many assistants as necessary.

(b) The engineer and his assistants are entitled to the compensation and allowances for transportation, supplies, and other expenses agreed on by the engineer and the commissioners court.

[Acts 1971, 62nd Leg., p. 499, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.021. Engineer's Bond

The engineer shall execute a bond for \$500 with two or more sureties approved by the commissioners court, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties under this chapter.

[Acts 1971, 62nd Leg., p. 499, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.022. Survey and Preliminary Plans

(a) Within the time prescribed by the commissioners court, the engineer shall make a careful survey of the land proposed to be drained and protected by levees. For the purposes of the survey, the engineer may go on land located inside or outside the district, including land located in a different county.

(b) The engineer shall obtain information regarding land and outlets inside the proposed district from the Texas Department of Water Resources and from other sources, and he shall cooperate with

the Texas Department of Water Resources in the discharge of its duties.

(c) The engineer shall use the survey to make preliminary plans:

- (1) locating approximately the necessary canals, drains, ditches, laterals, and levees;
- (2) designating the streams and bayous necessary to be cleaned, deepened, and straightened;
- (3) estimating the cost in detail of each contemplated improvement; and
- (4) estimating the probable annual cost of maintaining the improvements.

(d) The engineer shall ascertain and procure proper and necessary outlets for the proposed canals, drains, and ditches necessary to drain the district.

(e) The engineer shall immediately make a report of his work to the commissioners court.

[Acts 1971, 62nd Leg., p. 499, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 29, eff. June 10, 1981.]

§ 56.023. Map

(a) The engineer shall include with his report a map showing:

- (1) the beginning point and outlets of canals, drains, ditches, and laterals;
- (2) the length, width, depth, and slopes of the banks of any cut or excavation and the estimated number of cubic yards of earth necessary to be removed from each; and
- (3) the location and size of levees and the estimated number of cubic yards of earth necessary to construct them.

(b) The engineer will comply sufficiently with Subsection (a) of this section if he describes the boundaries and provides the other information required by that subsection on a copy of the official land office map of the county in which the proposed district is located.

[Acts 1971, 62nd Leg., p. 500, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.024. Hearing on Preliminary Report

(a) At the first regular or special meeting of the commissioners court after the engineer files his preliminary report with the clerk, the commissioners court shall schedule the report for hearing at a regular or special meeting, which must be held during the period beginning on the 20th day and ending with the 30th day after the day the commissioners court schedules the hearing.

(b) The clerk shall post notice of the hearing on the preliminary report in the manner provided in Section 56.017 of this code.

(c) At the hearing, any resident or nonresident freehold taxpayer whose land may be affected by the improvements, may appear and object to any of the improvements because they are not located at

the proper places or they are not sufficient in number or capacity to properly drain the territory.

[Acts 1971, 62nd Leg., p. 500, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.025. Changing the Preliminary Report

(a) The commissioners court may change the location of any improvement shown in the preliminary report or may add to or reduce the number of improvements. The commissioners court may order the engineer to locate any additional canals, drains, ditches, or levees for the purpose of conducting water from the land of the district or to prevent overflow of water from streams or other bodies of water onto the land of the district to be drained.

(b) The commissioners court may refer the entire preliminary report to the engineer for compliance with its orders and may require the engineer to submit a further report.

(c) If material changes or alterations are made in the preliminary report, the clerk shall give notice, and the commissioners court shall hold a hearing in the manner provided for the original preliminary report.

[Acts 1971, 62nd Leg., p. 500, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.026. Adopting the Preliminary Report

If there are no objections to the preliminary report or if the commissioners court finds that objections to the report are not valid, the report shall be approved and the approval entered in the minutes.

[Acts 1971, 62nd Leg., p. 501, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.027. Election Order

After the engineer's report is approved, the commissioners court shall order an election held in the proposed district at the earliest legal time to determine whether or not the district should be created and whether or not the district should issue bonds and levy taxes to pay for the bonds.

[Acts 1971, 62nd Leg., p. 501, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.028. Notice of the Election

(a) The clerk shall post notice of the election as provided in Section 56.017 of this code.

(b) The notice shall state:

- (1) the proposed creation of the district;
- (2) the amount of bonds to be issued;
- (3) the time and places the election will be held;
- (4) the propositions to be voted on; and
- (5) the purposes for which the bonds are to be issued.

(c) The amount of the bonds stated in the notice may not be greater than the engineer's estimate and

the cost of additional work made necessary by changes in the preliminary report.

[Acts 1971, 62nd Leg., p. 501, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.029. Conduct of Election

(a) The commissioners court shall name a polling place for each precinct or part of a precinct in the proposed district and shall appoint judges and other election officials.

(b) The ballots shall be printed to provide for voting for or against: "The creation of the drainage district and the issuance of bonds and the levy of taxes to pay for the bonds."

(c) The proposition must be approved by a two-thirds vote at the election before it will carry.

[Acts 1971, 62nd Leg., p. 501, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.030. Returns; Canvass

Immediately after the election, each presiding judge shall make and deliver the returns in the same manner as returns are made and delivered in general elections and shall deliver the ballot boxes to the county clerk, who shall keep them in a safe place until he delivers them together with the returns to the commissioners court at its next regular meeting or at a special meeting called to canvass the vote.

[Acts 1971, 62nd Leg., p. 501, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.031. Declaration of Result

(a) If the proposition carries, the commissioners court shall declare the result and enter the result in the minutes.

(b) The order of the commissioners court declaring the result shall read substantially as follows:

"_____ and _____ others having petitioned for the creation of _____ County Drainage District No. _____; an election having been held in the proposed district on _____; and a two-thirds majority of the votes cast in the election having favored creation of the district, issuance of bonds, and levy of a tax; now, therefore, the commissioners court declares that _____ County Drainage District No. _____ is created, within the following metes and bounds: (Field Notes)."

[Acts 1971, 62nd Leg., p. 502, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.032. Authorizing Existing Districts to Operate Under Article XVI, Section 59, of the Texas Constitution

(a) Any existing district may be authorized to operate under the provisions of Article XVI, Section 59, of the Texas Constitution without change of name or impairment of obligations.

(b) To operate under Article XVI, Section 59, of the Texas Constitution, the district shall present the petition and make the deposit required by Sections 56.014 and 56.015 of this code. The commissioners court, by order entered in its minutes, shall give notice and hold a hearing on the petition as required by Sections 56.017 and 56.018 of this code and may by order authorize the district to operate under the provisions of Article XVI, Section 59, of the Texas Constitution.

(c) Any district operating under the provisions of this section is governed and controlled by the laws under which it was organized.

(d) Limitations imposed by Article III, Section 52, of the Texas Constitution and this chapter on debts to be incurred and taxes to be levied are not applicable to districts operating under Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 502, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.033 to 56.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 56.061. Creation of Board

When a district is established, the commissioners court shall appoint three directors for the district.

[Acts 1971, 62nd Leg., p. 502, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.062. Qualification of Directors

To qualify as a director, a person must

- (1) be a resident of the county in which the district is located or an adjoining county;
- (2) be a freehold taxpayer of the district; and
- (3) be a qualified elector of the county of his residence.

[Acts 1971, 62nd Leg., p. 502, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.063. Term of Office, Removal, and Succession

(a) Appointed directors hold office for a term of two years and until their successors have qualified, and on expiration of a director's term or on resignation of a director, the commissioners court by a majority vote shall appoint a successor.

(b) The commissioners court by majority vote may remove a director from office for malfeasance in office.

[Acts 1971, 62nd Leg., p. 503, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5215, ch. 951, § 9, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 56.064. Election of Directors

(a) On petition of a majority of the real property taxpayers of a district requesting an election of district directors, the commissioners court shall immediately order an election to be held at the earliest legal time. The election shall be held as other elections under this chapter.

(b) The commissioners court shall declare the three persons receiving the highest number of votes elected, and if two or more persons tie for the third-highest vote, the commissioners court shall elect the third director from those tying for the place.

(c) On qualifying for office, directors elected under this section are the legal and rightful directors of the district within the full meaning and purpose of this law.

(d) The first elected directors of the district hold office until the next regular directors' election, and subsequent directors of the district are elected every four years at the general election except as otherwise provided by Subsection (e).

(e) The first elected directors of the districts in Calhoun, Galveston, Matagorda, and Victoria Counties hold office until April 15 of the next succeeding odd-numbered year or until their successors have qualified. Subsequent directors of the district are elected every two years on the first Saturday in April in each odd-numbered year, for a term of two years beginning on April 15 following the election.

[Acts 1971, 62nd Leg., p. 503, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 1847, ch. 575, §§ 1 and 2, eff. Sept. 1, 1975; Acts 1983, 68th Leg., p. 5216, ch. 951, § 10, eff. Jan. 1, 1984.]

Section 5 of the 1975 amendatory act provided:

"In all drainage districts subject to this Act, the directors elected at the general election held on November 5, 1974, continue to hold office under the provisions of Article XVI, Section 17, of the Texas Constitution, until the directors chosen at the election on April 2, 1977, have qualified."

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 56.0641. Election Procedures

(a) In those districts referred to in Subsection (e) of Section 56.064, until otherwise ordered by the board of directors, the three persons receiving the highest number of votes at each election are elected. By order made before the 60th day preceding an election for directors, the board of directors in those districts referred to in Subsection (e) of Section 56.064 may order that the election of directors for that district shall be by position or place, designated as Place No. 1, Place No. 2, and Place No. 3. The order shall designate the place numbers in relation to the directors then in office, and these place designations shall be observed in all future elections. The person receiving the highest number of votes for each position or place is elected. Once

the board of directors has adopted the place system for election, neither that board nor their successors may rescind the action.

(b) A person wishing to have his name printed on the ballot as a candidate for director in those districts referred to in Subsection (e) of Section 56.064 shall file a signed application with the secretary of the board of directors not later than 5 p.m. of the 31st day preceding the election.

(c) The board of directors in those districts referred to in Subsection (e) of Section 56.064 shall order the election, appoint the election judges, canvass the returns, and declare the results of the election. In other respects, the procedures for conducting the election and for voting are as specified in the Texas Election Code. The expenses of holding the election shall be paid out of the construction and maintenance fund of the district.

[Acts 1975, 64th Leg., p. 1847, ch. 575, § 3, eff. Sept. 1, 1975.]

§ 56.0642. Applicability to Special Law Districts

Subsection (e) of Section 56.064 and Section 56.0641 of this code apply to drainage districts created or governed by special law where the special law expressly adopts the provisions of Section 56.064 of this code or its predecessor statute (Article 8119, Revised Civil Statutes of Texas, 1925) or repeats its provisions, without change in substance, as those provisions existed at the time the special law was enacted; but they do not apply to any district established, reestablished, or otherwise affected by special law where the special law contains specific provisions relating to the method of selecting the governing body of the district which were at variance with the provisions of Section 56.064 of this code or its predecessor at the time the special law was enacted.

[Acts 1975, 64th Leg., p. 1848, ch. 575, § 4, eff. Sept. 1, 1975.]

§ 56.065. Director's Oath

Before beginning to perform his duties, each director shall take and subscribe before the county judge an oath to discharge faithfully the duties of his office without favor or partiality and to render a true account of his activities when requested by the commissioners court. The clerk of the court shall file the oath, and the oath shall be a part of the district records.

[Acts 1971, 62nd Leg., p. 503, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.066. Director's Bond

Before beginning to perform his duties, each director shall execute a good and sufficient bond for \$1,000, payable to the county judge for the use and benefit of the district, conditioned on the faithful performance of his duties.

[Acts 1971, 62nd Leg., p. 503, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.067. Director's Compensation

(a) The directors of any district are entitled to receive for their services not more than \$50 a day for the time actually engaged in the work of the district. The commissioners court shall establish the amount of compensation by order.

(b) Before the directors' accounts are approved, the directors shall submit to the commissioners court a detailed written report, under oath, showing the time actually spent in working for the district and describing the work done. The commissioners court shall audit the report and allow the amount determined by it.

[Acts 1971, 62nd Leg., p. 503, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 644, ch. 144, § 5, eff. May 17, 1983.]

§ 56.068. Organization of Board

(a) The board of directors shall organize by electing one director as president and one director as secretary.

(b) Two directors constitute a quorum to transact all business of the district.

[Acts 1971, 62nd Leg., p. 504, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1768, ch. 518, § 7, eff. May 31, 1971.]

§ 56.069. Transfer of Board's Power to Commissioners Court

(a) The functions, powers, rights, and duties exercised by or relating to the board of any district may be transferred to the commissioners court of the county in which the district is wholly located, but before the transfer is made, the commissioners court and the board must pass resolutions authorizing the transfer.

(b) After the transfer is made, the commissioners court shall be the sole governing body of the district and shall exercise the functions, powers, rights, and duties transferred.

(c) The members of the commissioners court are not entitled to receive any compensation for the exercise of these functions, powers, rights, and duties.

(d) On the passage of a resolution at a meeting of the board of the district, the commissioners court may be authorized to receive an allowance of not more than \$150 a month for travel expense incurred by the commissioners incident to the discharge of their duties as members of the board of the district.

[Acts 1971, 62nd Leg., p. 504, ch. 58, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1780, ch. 653, § 4, eff. June 16, 1973.]

§ 56.070. Treasurer

The county treasurer is the treasurer of the district.

[Acts 1971, 62nd Leg., p. 504, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.071. Treasurer's Bond

(a) The county treasurer shall execute a good and sufficient bond payable to and approved by the board, conditioned on the faithful performance of his duties as treasurer. The bond shall be in an amount equal to the amount of the bonds issued.

(b) If a district depository is selected, the county treasurer shall execute a bond conditioned on the faithful performance of his duties pursuant to the law relating to county treasurers in counties which have county depositories.

[Acts 1971, 62nd Leg., p. 504, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.072. Treasurer's Compensation

The treasurer is entitled to receive for his services one-fourth of one percent of the money received by him for the account of the district and one-eighth of one percent of the money paid out by him on order of the district. The treasurer is not entitled to receive any commissions on district money he receives from his predecessor in office.

[Acts 1971, 62nd Leg., p. 504, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.073. Tax Assessor and Collector

The county assessor and collector shall assess and collect taxes for the district.

[Acts 1971, 62nd Leg., p. 504, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 56.074, 56.075. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 56.076. Board of Equalization

The commissioners court shall serve as the board of equalization for the district, and laws governing boards of equalization for state and county taxing purposes shall govern the district board.

[Acts 1971, 62nd Leg., p. 505, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.077. Separate Assessor and Collector

(a) After a district is created and on the petition of 25 resident freeholders of the district, the commissioners court may order an election to determine whether or not the district will have a separate tax assessor and collector to assess and collect taxes. Notice of the election shall be given as in the original election.

(b) If the proposition is approved by a two-thirds vote, the commissioners court shall appoint a suitable person as assessor and collector, and the appointee shall assess and collect the district's taxes.

(c) The Property Tax Code governs the assessing and collecting of district taxes.

[Acts 1971, 62nd Leg., p. 505, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 56.078. District Engineer

The board shall appoint a competent civil engineer, who may appoint necessary assistants.

[Acts 1971, 62nd Leg., p. 505, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.079. Engineer's and Assistant's Compensation and Expenses

The engineer and his assistants are entitled to receive the pay, transportation allowance, supplies, and other things agreed on by the engineer and the board and approved by the commissioners court.

[Acts 1971, 62nd Leg., p. 505, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.080. District Lawyer

The board may employ a lawyer

- (1) to prepare contracts for the district;
- (2) to conduct proceedings for the district in and out of court; and
- (3) to be the board's legal adviser.

[Acts 1971, 62nd Leg., p. 505, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.081. Lawyer's Compensation

The lawyer is entitled to receive the fees agreed on by him and the board and approved by the county judge. The board shall draw warrants to pay for the legal services.

[Acts 1971, 62nd Leg., p. 506, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.082. Hearing; Powers of the Commissioners Court

(a) Except as otherwise provided in this chapter, the commissioners court has exclusive jurisdiction to hear and determine

- (1) contests and objections to creating a district;
- (2) matters relating to creating a district; and
- (3) all proceedings of a district after it is organized.

(b) The commissioners court may adjourn a hearing from day to day, and the judgment of the commissioners court rendered under Subsection (a) of this section is final.

[Acts 1971, 62nd Leg., p. 506, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.083. Court Actions

(a) A district through its board may sue and be sued in the courts of this state in the name of the district, and the courts of this state shall take

judicial notice of the establishment of all drainage districts.

(b) Only suits in the name of the state by the attorney general on his own motion or on motion of any affected party showing good cause may be brought in courts of this state to enjoin the formation of a district or to contest the validity of any district or its bonds.

[Acts 1971, 62nd Leg., p. 506, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.084 to 56.110 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 56.111. Control and Repair of District Improvements

The board may control and supervise the construction and maintenance of canals, drains, ditches and levees, and other improvements of the district and shall keep them in repair.

[Acts 1971, 62nd Leg., p. 506, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.112. Report of the Board

(a) The board shall make semiannual reports of their actions, including a financial statement showing receipts and disbursements of funds subject to orders of the board.

(b) The board's report shall state in detail

- (1) the kind, amount, and character of work done by the district;
- (2) the cost of work done by the district;
- (3) the amounts paid out in orders of the board;
- (4) the purposes for which the amounts were paid;
- (5) the persons to whom the amounts were paid;
- (6) dates, amounts, and details of receipts and disbursements; and
- (7) other data to show the condition of improvements made under this chapter.

(c) The board shall file the report with the county clerk on or before the first day of January and July of each year and shall publish a copy of the report once a week for two consecutive weeks immediately following the first day of January and July of each year in a newspaper published in the county.

[Acts 1971, 62nd Leg., p. 506, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.113. Authority to Go on Land Inside and Outside the District

The board and the engineer, together with necessary teams, help, tools, and implements, may go on land located inside and outside the district to examine the land, to locate canals, drains, ditches, levees,

and necessary outlets and to make plans, surveys, maps, and profiles.

[Acts 1971, 62nd Leg., p. 507, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.114. Resisting District Officer

Any person who wilfully prevents or prohibits any officer from entering land for the purposes stated in Section 56.113 of this code, upon conviction, is punishable by a fine of not more than \$25 for each day he prevents or hinders the officer.

[Acts 1971, 62nd Leg., p. 507, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.115. Duties of the Engineer

(a) The engineer shall make a map of the district showing:

- (1) the boundary lines of the district;
- (2) the original surveys within the boundaries of the district; and
- (3) the number of acres in an original survey which are included in the district if the boundary lines of the district cross the original survey.

(b) The engineer shall make maps and profiles of the canals, drains, ditches, and levees located in the district and their outlets extending beyond the boundaries of the district.

(c) A copy of the land office map of the county which shows the name and number of each survey and the area or number of acres within the district is sufficient to comply with the requirement for a map of the district, and any recognized map of a city or town in the district is sufficient to comply with the requirement for a map of that city or town.

[Acts 1971, 62nd Leg., p. 507, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.116. Maps and Estimates

(a) The map and profile shall include the relation that each canal, drain, ditch, or levee bears to each tract of land through which it passes and the shape into which the canal, drain, ditch, or levee divides each tract.

(b) If any canal, drain, ditch, or levee cuts off any tract containing less than 20 acres of land, the map shall show:

- (1) the number of acres divided from the tract;
- (2) the number of acres in the whole tract;
- (3) the shape of the small tract; and
- (4) the relation of the small tract to the canal, ditch, drain, or levee.

(c) The profile may show the number of cubic yards necessary to be excavated to make each canal, drain, or ditch and to build any levee located in the district and may give the estimated cost of each.

(d) When the map, profile, and estimates are completed, the engineer shall sign them in his official

capacity and file them with the clerk of the commissioners court.

[Acts 1971, 62nd Leg., p. 507, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.117. Duty to Construct Improvements

Improvements included in the engineer's report and adopted by the commissioners court shall be constructed.

[Acts 1971, 62nd Leg., p. 508, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.118. Right-of-Way

The board may acquire by gift, grant, purchase, or condemnation the necessary rights-of-way for all canals, drains, ditches and levees, and other necessary improvements. If the rights-of-way are acquired by purchase, the commissioners court must approve it.

[Acts 1971, 62nd Leg., p. 508, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.119. Eminent Domain

(a) Any district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through public and private lands necessary for making canals, drains, levees, and improvements in the district and for making necessary outlets thereto in any county in the state. A district which is not operating under Article XVI, Section 59, of the Texas Constitution may not condemn property used for cemetery purposes. No district may condemn right-of-way through any part of any incorporated city without the consent of the lawful authorities.

(b) Eminent domain proceedings shall be in the name of the district and under the direction of the board, and expenses arising from the proceedings shall be paid from the construction and maintenance fund.

(c) An appeal from the finding and assessment of damage made by commissioners appointed for that purpose shall not suspend work of the board in providing drainage.

[Acts 1971, 62nd Leg., p. 508, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 253, ch. 102, § 1, eff. April 30, 1975.]

§ 56.120. Railroad Culverts

(a) At the expense of the district, the board may construct necessary bridges and culverts across or under a track or right-of-way of a railroad to enable the district to construct and maintain a necessary canal, drain, or ditch.

(b) Before the board constructs a bridge or culvert, the board shall give notice to the railroad authorities authorized to build or construct bridges and culverts and shall allow the railroad 30 days to build the bridge or culvert at its own expense and according to its own plans.

(c) Bridges or culverts shall be constructed so they will not interfere with the free and unobstructed flow of water passing through the canals and drains and shall be placed at points designated by the engineer.

[Acts 1971, 62nd Leg., p. 508, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.121. Road Culverts

The board shall build necessary bridges and culverts across or over canals, drains, ditches, laterals, and levees which cross a county or public road and shall pay for the construction with funds of the district.

[Acts 1971, 62nd Leg., p. 508, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.122. Constructing Bridges and Culverts in Certain Counties

(a) If it is necessary to build a bridge or culvert across or over a state highway located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, the board may construct or assist in constructing the bridge or culvert.

(b) After the bridge or culvert is constructed, the board may pay or may join with any county or other governmental agency or subdivision to pay the expenses of making necessary and needed repairs. The expenses shall be paid from the funds of the district.

[Acts 1971, 62nd Leg., p. 508, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.123. Change in Plans Without Additional Expenditures

(a) After the commissioners court authorizes bonds to be issued, the board may make changes in the district or its improvements which will be an advantage to the district but which will not increase the cost of the proposed work beyond the amount of bonds authorized.

(b) The board may make the changes by entering on their minutes a notation of the changes, with the district maps and profiles showing the changes. Notice of the changes shall be given by publishing the notation with the book and page number of the minutes for two consecutive weeks in a newspaper of general circulation published in the English language in the county in which the district is located.

[Acts 1971, 62nd Leg., p. 509, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.124. Change in Plans With Additional Expenditures

(a) If the board decides that changes or additions in the preliminary survey would be of advantage to the district but would necessitate issuing additional bonds of the district, it shall certify to the commissioners court the need for additional bond authorization and transmit the certification with maps and

profiles prepared by the district engineer showing the changes and their estimated cost.

(b) At the first regular meeting after the documents are filed, the commissioners court shall give notice of an election to determine whether or not the changes and improvements should be made and shall order the election held within the time and the returns made as provided in the original election.

(c) If two-thirds of the electors of the district vote in favor of the proposition, the board shall enter the approval in the records and shall order the bonds issued as in the manner provided for issuance of the original bonds.

[Acts 1971, 62nd Leg., p. 509, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.125. Additional Improvements

(a) After completion of improvements, including bridges and culverts, and after payment of all expenses, if surplus money or bonds remain to the credit of the district, the board may order the engineer to make a detailed report of additional or supplemental drains, ditches, levees, or other surface drainage improvements, including tile drainage, which are needed by the district. The engineer shall make the report and the board shall act on the report in the manner provided in this chapter for the initial report of the engineer.

(b) After the engineer's report is approved or modified by the commissioners court, the court shall order an election to be held in the district at the earliest legal time. The only proposition that may be submitted at the election is whether or not the district will construct additional improvements and pay for them with funds currently available. A majority of those persons voting at the election must approve the proposition for it to carry.

(c) Notice of the election shall be given, election officials appointed, returns made and canvassed, and the result declared as provided in Sections 56.027-56.031 of this code. The notice of election shall state:

- (1) the character and scope of the proposed improvements;
- (2) the estimated cost of the proposed improvements; and
- (3) the time and place for holding the election.

(d) The provisions of this chapter relating to awarding contracts, constructing improvements, and the authority of the board and the commissioners court to award contracts and construct improvements apply as far as applicable to constructing and paying for additional improvements.

(e) The estimated cost of the additional improvements may not be more than the amount of surplus money or bonds to the credit of the district.

[Acts 1971, 62nd Leg., p. 509, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.126. Changes, Additions, and Improvements

When the board determines that a necessity exists, it may make changes in, additions to, and improvements in the drainage system of the district and shall pay for the changes, additions, and improvements with funds collected under the provisions of Section 56.242 of this code.

[Acts 1971, 62nd Leg., p. 510, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.127. Maintenance Report

(a) On or before the first day of July of each year, the board shall file with the commissioners court a detailed maintenance report. The report shall include:

- (1) the condition of improvements previously made in the district;
- (2) an estimate of the probable cost of maintenance and repairs during the next year;
- (3) an inventory of funds, effects, property, and accounts belonging to the district; and
- (4) a list of lawful demands, debts, and obligations of the district.

(b) The board shall verify the report, and the commissioners court shall carefully investigate it before any taxes are levied under Section 56.241 of this code.

[Acts 1971, 62nd Leg., p. 510, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.128. Injuring Drainage Canal or Ditch

Any person who wilfully fills up, cuts, injures, destroys, or impairs the usefulness of any canal, drain, ditch, watercourse, or other work constructed, repaired, or improved by a district to drain and protect from overflow of water, upon conviction is punishable by confinement in the county jail for not more than two months or by a fine of not more than \$100.

[Acts 1971, 62nd Leg., p. 510, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.129. Bid Procedure

(a) Before awarding any contracts for construction or necessary work, the board shall advertise for bids once a week for four consecutive weeks in one or more newspapers of general circulation in the state and shall post notice that the board is taking bids for at least 25 days at five public places in the county, including one copy posted at the courthouse door and at least two copies posted elsewhere in the district.

(b) On application, the board shall furnish to any person who desires to bid on construction work advertised under Subsection (a) of this section a copy of the engineer's report showing the locations, profiles, and estimates on the work.

(c) Each bid shall be in writing, sealed, and accompanied by a certified check for five percent of the total amount of the bid and shall be delivered to

the chairman of the board. If a bidder whose bid is accepted by the district refuses to enter into a proper contract with the district, the bidder shall forfeit the certified check which accompanied his bid.

(d) The board shall award the contract to the lowest bidder and may reject any bid it considers to be too high. The contracts may be awarded separately or together.

[Acts 1971, 62nd Leg., p. 510, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.130. Requisites of a District Contract

Each contract shall be in writing, signed by the contractor and the board, and approved by the county judge, and a copy of the contract shall be filed with the county clerk.

[Acts 1971, 62nd Leg., p. 511, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.131. Contract Payments

(a) On completion of any contract except a contract awarded on a partial payment plan, the board shall draw a warrant on the treasurer in favor of the contractor or his assignee for the amount of the contract price.

(b) To obtain more favorable contracts, the board may advertise and contract for work to be paid for in partial payments as the work progresses, but the aggregate amount of the partial payments may not be more than 75 percent of the total amount to be paid under the contract.

(c) The engineer shall make a certified report showing the amount of work completed under any contract, and payment shall not be made for incomplete work.

[Acts 1971, 62nd Leg., p. 511, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.132. Contractor's Bond

The contractor shall execute a bond for the amount of the contract price, payable to the board and approved by the board and the county judge, conditioned on the faithful performance of the obligations, agreements, and covenants in the contract and that in the event of default, the contractor will pay to the district damages sustained as a result of the default.

[Acts 1971, 62nd Leg., p. 511, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.133. Duties of the Engineer

(a) The engineer shall furnish to the contractor a sectionized profile of the contract work. The profile shall show:

- (1) the depth, width, and slope of canals, drains, ditches, and levees;
- (2) the number of cubic yards of earth to be removed; and
- (3) other work to be done by the contractor.

(b) The contractor shall do the work under the supervision of the engineer, who shall indicate to the contractor the points at which the laterals shall intersect the main canal.

(c) The contractor may not deposit earth at a place at which it will interfere with constructing laterals or other improvements in the district or building bridges or other improvements on the public roads.

(d) After the work is completed under the contract, the engineer shall make a detailed report to the board showing whether or not the contract has been complied with fully, and if not, the extent of noncompliance.

[Acts 1971, 62nd Leg., p. 511, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.134. Inspection of Work

The board shall inspect any work done under contract as the work progresses.

[Acts 1971, 62nd Leg., p. 512, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.135. Interest in Drainage Contract

A county judge, county commissioner, drainage commissioner, or drainage engineer who becomes interested in any contract for construction of any work by the district or in any fee paid by the district from which he will receive money, consideration, or other thing of value, upon conviction is punishable by confinement in the county jail for not less than six months nor more than one year.

[Acts 1971, 62nd Leg., p. 512, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.136. Purchases of and Contracts for Less Than \$50 by Districts in Certain Counties

(a) On requisition signed by at least two directors, the board of any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, may make purchases or contracts in any amount of not more than \$50.

(b) In cases of emergency, the board does not have to take bids.

(c) Before the purchase or contract is made, the commissioners court shall issue the requisition in triplicate with copies to be delivered to the person from whom the purchase is being made or with whom the contract is being made and to the county auditor. A copy also shall be filed with the board.

[Acts 1971, 62nd Leg., p. 512, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.137. Purchases of and Contracts for More Than \$50 But Less Than \$500 by Districts in Certain Counties

(a) If purchases or contracts to be made by any district located in a county having a population of

more than 350,000 inhabitants, according to the last preceding federal census, are in an amount more than \$50 but not more than \$500, the district shall ask for sealed bids from at least three persons and shall accept as many more bids as are offered. It is not necessary to advertise for sealed bids.

(b) The bids shall be based on written specifications filed with the county auditor before the beginning of the 48-hour period immediately preceding the time for the bidding to open.

(c) The board shall award the contract to the lowest and best bidder, but before the contract is executed or the supplies furnished, at least two of the directors shall issue to the contractor a requisition. A copy of the requisition shall be filed with the county auditor.

[Acts 1971, 62nd Leg., p. 512, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.138. Expenditures Exceeding \$500 by Districts in Certain Counties

(a) If any district located in a county having a population of more than 350,000 inhabitants, according to the last preceding federal census, plans to spend more than \$500 on any contract or purchase, the district shall prepare and file with the county auditor specifications covering the material or supplies to be purchased or the work to be performed.

(b) The county auditor shall advertise for bids once a week for two consecutive weeks in a newspaper published in the county in which the district is located. The advertisement shall include the time and place for opening the bids and the place at which the specifications may be obtained.

(c) Each bidder shall include with his bid a certified check on a Texas bank for five percent of the amount of the bid, conditioned that the successful bidder will enter into a contract, and a bond in an amount equal to the amount of the contract executed by a surety company authorized to do business in Texas.

(d) At an open meeting, the commissioners shall award the contract to the lowest and best bidder. The contract shall be made in writing, and together with the bond and original bids shall be filed in the office of the county auditor as part of the records of his office.

(e) Before any supplies are furnished or delivered or any work performed, at least two directors of the district shall issue and file with the county auditor a requisition covering the contract or purchase. The contract or purchase is not binding until the requisition is issued and filed.

[Acts 1971, 62nd Leg., p. 512, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.139. County Auditor's Endorsement

Before a requisition is issued or a contract approved under Section 56.136, 56.137, or 56.138 of this code, the county auditor must endorse on the

requisition or contract his certificate that the contract is made or the requisition is authorized in conformity with law and that funds are available or will be available to make payment when due.

[Acts 1971, 62nd Leg., p. 513, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.140. Public and Private Improvements

(a) Canals, drains, ditches, and levees which are constructed by a district and watercourses which are cleaned or constructed by a district are the public property of the district.

(b) A person who owns land in the district may drain into one or more of the public drains, and at his own expense, the landowner may make drains according to the natural slope of the land through other lands intervening between his land and the nearest public drain or watercourse or along any public highway.

(c) Before constructing any drains, the landowner shall notify the board of his intention to construct a drain through another person's land or along a public highway, and the directors shall go on the premises and acting as a jury of view shall determine the place for constructing the drain.

[Acts 1971, 62nd Leg., p. 513, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.141. Outside Drains

(a) Before a person artificially drains adjacent land located outside the district into the canals, drains, or ditches of the district, the person must submit a written application to the board, and the board must grant permission to make the connections. The application shall include the width, depth, and length of the connecting drains and ditches.

(b) When the application is filed with the board, the engineer shall estimate the quantity of water which the connecting drains or ditches would probably empty into the established canals or drains and shall indicate whether or not the established canals or drains have sufficient capacity to carry the excess water without risk or damage to the canals, drains, or adjacent territory. The engineer shall report to the board the result of his examination and his estimate.

(c) Unless an agreement is reached with the applicants, the commissioners may authorize the connection on condition that the applicant first pay to the construction and maintenance fund an amount of money which bears the same ratio to the cost of the original canal or drain from the point of connection to its outlet as the water to be emptied into the canal or drain by the connecting drains bears to the water then flowing into and being carried by the original canal or drain as estimated by the engineer.

[Acts 1971, 62nd Leg., p. 513, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.142. Enlargement of Canals, Drains, and Other Outlets

(a) If the engineer's report indicates that the capacity of the canals, drains, or outlets of the district are insufficient to carry the excess water that would be discharged into them by connecting drains or that the additional discharge of water will endanger the canals and drains or the lands and property adjacent to them, the commissioners court in the county in which the district is located may give the applicant permission to construct connecting drains and secure the desired outlet on condition that the applicant make necessary enlargements of the canals and drains of the district at the applicant's own expense. The increased capacity of the canals of the district shall be sufficient to carry any increase of water caused by the connection without danger to canals and drains or lands adjacent to them.

(b) The engineer shall supervise and direct the enlargement of the canals and drains, and after the work is completed to his satisfaction, the engineer shall report to the commissioners court under his official certificate. The report shall show:

- (1) the kind of work done;
- (2) the extent of the work;
- (3) the new capacity to be sufficient to carry excess water from the connecting drain;
- (4) the number of days spent by the engineer supervising the work; and
- (5) the amount due to the engineer for his services.

(c) On approving the engineer's report, the commissioners court shall issue an order authorizing the connections to be made with the canals and drains on payment of the amount due to the engineer as shown by the engineer's report and shall order the applicant to pay the engineer's salary.

[Acts 1971, 62nd Leg., p. 514, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.143. Contract for Improvements With the United States

(a) Any district which is converted under Section 56.032 of this code and which lies wholly within one county may enter into contracts with the United States, including the Bureau of Reclamation of the Department of Interior, to construct improvements.

(b) The board must approve the project, plans and specifications, and methods of constructing or reconstructing the improvements.

(c) After approval, the board may execute a contract for a specified number of years or until the plans or programs of the district are completed and shall pay the obligations incurred under the contract by issuing bonds that are approved by the voters in the manner provided for issuing other bonds of the district. The board shall deliver the bonds to the United States.

[Acts 1971, 62nd Leg., p. 514, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.144 to 56.180 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL
PROVISIONS

§ 56.181. Duties of the Treasurer

(a) The county treasurer shall open an account for each district and shall keep an accurate account of money received by him and paid out by him for each district.

(b) The county treasurer shall pay out money only on vouchers signed by the board and countersigned by the county judge, and he shall keep a file of all orders for payment of money.

(c) On request of the board or the commissioners court, the county treasurer shall render a correct account of matters relating to the financial condition of the district.

[Acts 1971, 62nd Leg., p. 515, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.182. District Funds

(a) The construction and maintenance fund consists of money, effects, property, and proceeds received by the district from any source except that portion of tax collections necessary to pay principal and interest on bonded indebtedness.

(b) The interest and sinking fund consists of that portion of tax collections necessary for paying principal and interest on bonded indebtedness, and this fund may be invested for the benefit of the district in bonds and securities approved by the attorney general.

(c) Each fund shall be held for the purpose for which it was created, and if money is improperly paid from either fund, the commissioners court may have the county treasurer transfer money in the two funds to restore the fund which was improperly used.

[Acts 1971, 62nd Leg., p. 515, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.183. Payment of Expenses, Debts, and Obligations of the District

After any district is established, legal and just expenses, debts, and obligations, except bonded indebtedness, arising and created after the filing of the petition to create the district and necessarily incurred in creating, establishing, operating, and maintaining the district shall be paid from the construction and maintenance fund.

[Acts 1971, 62nd Leg., p. 515, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.184. District Depository

(a) The board may provide for a district depository under the laws relating to the designation of a county depository and may exercise the same powers with relation to district funds that are exercised

by the commissioners court in designating a county depository.

(b) The depository shall execute a good and sufficient bond, approved by the board, as provided by law for county depositories.

[Acts 1971, 62nd Leg., p. 515, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.185 to 56.200 reserved for expansion]

SUBCHAPTER F. ISSUANCE OF BONDS

§ 56.201. Authority to Issue Bonds

Any district may issue bonds as provided in this chapter to pay for drainage improvements.

[Acts 1971, 62nd Leg., p. 515, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.202. Issuance of Bonds

When maps, profiles, and estimates are filed, the commissioners court shall issue an order directing the issuance of bonds sufficient to pay for proposed improvements together with necessary, actual, and incidental expenses. The bonds may not be issued in an amount greater than the amount specified in the order and notice of election, and in districts operating under Article III, Section 52, of the Texas Constitution, the bonds may not be issued in an amount greater than one-fourth of the assessed valuation of the real property of the district.

[Acts 1971, 62nd Leg., p. 516, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.203. Record Book for Bonds

(a) Before any bonds are issued, the commissioners court shall provide a well-bound book in which the county clerk shall keep a record of:

- (1) all bonds which have been issued;
- (2) the numbers of the bonds;
- (3) the amount of the bonds;
- (4) the rate of interest on the bonds;
- (5) the date of issuance of the bonds;
- (6) the date on which the bonds are due;
- (7) the place where the bonds are payable;
- (8) the amount received for the bonds;
- (9) the annual rate of assessment to pay interest on and provide a sinking fund for the bonds; and
- (10) the payment of each bond.

(b) The county clerk shall keep the book open at all times for public inspection by district taxpayers and bondholders.

(c) The county clerk is entitled to receive for recording district bonds and other instruments the same fees allowed by law for recording other similar records.

[Acts 1971, 62nd Leg., p. 516, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.204. Bonds: Requisites

(a) Bonds shall be issued in the name of the district, signed by the county judge, and attested by the county clerk, and each bond shall have the seal of the commissioners court affixed to it.

(b) The bonds shall be issued in denominations of not less than \$100 nor more than \$1,000 and shall bear interest which is payable annually or semiannually.

(c) The terms of the bonds shall include the time, places, manner, and conditions of payment and the rate of interest determined and ordered by the commissioners court.

(d) The bonds shall be paid not later than 40 years from the date they are issued.

[Acts 1971, 62nd Leg., p. 516, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.205. Bonds: Approval

(a) Before any bonds are offered for sale, the district shall submit to the attorney general

- (1) a copy of the bonds;
- (2) a certified copy of the commissioners court order levying a tax to pay interest and create a sinking fund;
- (3) a statement of the district's total bonded indebtedness including the value of the bonds proposed to be issued and the value of taxable property in the district as shown by the last official assessment of the county; and
- (4) other information the attorney general requires.

(b) The attorney general shall examine the bonds carefully and shall certify them if he finds that they conform to the constitution and laws of this state and are valid and binding obligations of the district.

[Acts 1971, 62nd Leg., p. 516, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.206. Bonds: Registration

(a) When the attorney general approves the bonds, the comptroller shall register them in a book kept for that purpose and shall record the attorney general's certificate for use in possible future litigation. After the bonds are registered, they are prima facie valid and binding obligations in any action, suit, or proceeding.

(b) In a suit to enforce collection of the bonds, the attorney general's certificate or a certified copy of it shall be admitted and received in evidence as prima facie proof of the validity of the bonds and attached coupons, and the only defense against the validity of the bonds is forgery or fraud.

[Acts 1971, 62nd Leg., p. 517, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.207. Bonds: Sale

(a) When the bonds are registered, the county judge, under the direction of the commissioners

court, shall advertise and sell the bonds on the best terms and for the best price possible.

(b) The county judge shall pay to the county treasurer all money from the sale of the bonds as it is received, and the county treasurer shall place the money in the construction and maintenance fund to the credit of the district.

(c) The county judge is entitled to receive one-half of one percent of the amount received from the sale of bonds sold by him as payment for his services.

[Acts 1971, 62nd Leg., p. 517, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.208. Bond of County Judge

(a) After the bonds are registered, the county judge shall immediately execute a good and sufficient bond in an amount not less than the amount of the bonds issued, payable to and approved by the board, conditioned on the faithful discharge of his duties.

(b) If the bond is executed by a satisfactory surety company, the district may pay a reasonable amount as premium on the bond. The premium shall be paid from the construction and maintenance fund on presentation to the board of a bill for the premium. The board may deduct the premium from the commissions allowed the county judge on the sale of bonds.

(c) If there is any controversy as to the reasonableness of the amount claimed as premium, the controversy may be settled by any court of competent jurisdiction.

[Acts 1971, 62nd Leg., p. 517, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.209. Use of Unsold Bonds for Maintenance Purposes

If any bonds remain unsold which are not required to complete improvements, the commissioners court may enter its consent on the public record to sell the bonds and place the proceeds in the construction and maintenance fund for use in accomplishing the purposes stated in Section 56.242 of this code.

[Acts 1971, 62nd Leg., p. 517, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.210. Refunding Bonds

(a) With the consent of the bondholders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds. The commissioners court may pay the interest on the bonds annually or semiannually.

(c) The commissioners court may pay the refunding bonds serially, or in any other manner they choose, but in districts which are not operating under Article XVI, Section 59, of the Texas Consti-

tution, it shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) The district shall issue the bonds in denominations of \$100 or a multiple of \$100, and shall levy a tax sufficient to meet the payment of principal and interest of the refunding bonds before the bonds are delivered.

(e) The commissioners court shall issue refunding bonds in the manner provided for other district bonds, and shall deduct any sum on hand to the credit of any sinking fund account in ascertaining the amount of refunding bonds to be issued. This sum shall be applied to the payment of the outstanding bonds.

(f) The commissioners court shall not issue refunding bonds until they are approved by the attorney general and registered by the comptroller. The comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The district may present the old bonds for cancellation in installments, and the comptroller may register and deliver a like amount of the new bonds.

(g) In a district operating under Article XVI, Section 59, of the Texas Constitution, if the holders of outstanding bonds do not consent to the exchange of their bonds for refunding bonds, the refunding bonds may be sold and the proceeds applied to the purchase of the outstanding bonds when they become payable under an option of prepayment contained in the bonds or when the bondholders will accept payment.

[Acts 1971, 62nd Leg., p. 518, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.211. Refunding Bond Election

(a) If indebtedness to be refunded includes obligations other than voted bonds, in any district operating under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, before the refunding bonds may be issued, a majority of the electors of the district voting at an election called for that purpose must vote in favor of issuing the refunding bonds and levying a tax to pay for the bonds.

(b) The commissioners court shall call the election and the clerk of the court shall give notice of the time and places for holding the election.

(c) The notice shall be signed by the clerk and shall

- (1) state the purpose of the election;
- (2) state the proposition to be voted on;
- (3) define the election precincts;
- (4) prescribe the polling places in the district; and
- (5) list the names of the election officers.

(d) The notice shall be published once a week for three consecutive weeks in a newspaper of general circulation in the county in which the district is located, but if a newspaper is not published in the county, the notice shall be published in the nearest county. The first publication shall be at least 20 days before the day of the election.

[Acts 1971, 62nd Leg., p. 518, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1768, ch. 518, § 8, eff. May 31, 1971.]

§ 56.212. Approval and Issuance of Refunding Bonds

(a) If the commissioners court declares the result of the election under Section 56.211 of this code to favor the issuance of refunding bonds and the levy of a tax to pay for the bonds, refunding bonds with the seal of the commissioners court affixed to them may be issued in the name of the district. The bonds shall be signed by the county judge, attested by the county clerk, and registered by the county treasurer.

(b) The bonds together with the record relating to them shall be submitted to the attorney general for his approval.

(c) When the attorney general approves the bonds, they shall be delivered to the comptroller who shall register them and deliver them in exchange for or on release of the obligations being refunded at the time, in the manner, and in the amounts prescribed in the order of the commissioners court. If the obligations being refunded are evidenced by outstanding securities, the comptroller shall cancel the outstanding securities concurrently with the registration and delivery of the bonds.

(d) When the refunding bonds are approved by the attorney general and registered and delivered by the comptroller, the bonds are valid and binding obligations of the district and are incontestable for any cause.

[Acts 1971, 62nd Leg., p. 519, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.213 to 56.240 reserved for expansion]

SUBCHAPTER G. TAXATION PROVISIONS

§ 56.241. Levy of Taxes to Pay for Bonds

After bonds are authorized at an election, the commissioners court shall have taxes annually assessed and collected on all property in the district sufficient to pay interest and principal on the bonds. Taxes collected under this section shall be placed in the interest and sinking fund.

[Acts 1971, 62nd Leg., p. 519, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.242. Maintenance Tax

(a) At the same time that taxes are levied to pay bonded indebtedness, the commissioners court shall have a tax assessed and collected on district proper-

ty sufficient to maintain, repair, and preserve district improvements and to pay legal debts, demands, and obligations of the district, but in districts operating under Article III, Section 52, of the Texas Constitution, the tax may not be in an amount greater than one-half of one percent of the total assessed valuation of the district for that year.

(b) Taxes collected under this section shall be placed in the construction and maintenance fund. [Acts 1971, 62nd Leg., p. 519, ch. 58, § 1, eff. Aug. 30, 1971.]

§§ 56.243 to 56.246. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 56.247. Levying Taxes on the Benefit Basis

A district operating under Article XVI, Section 59, of the Texas Constitution, may levy taxes on the benefit basis, which means the levy of a tax on an equal or uniform basis or rate on each acre of land in the district.

[Acts 1971, 62nd Leg., p. 520, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.248. Authorizing Taxation on the Benefit Basis for Newly Created Districts

(a) In a petition to create a district under Article XVI, Section 59, of the Texas Constitution, the petitioner may request that taxes in the proposed district be levied on the benefit basis, and the notice of hearing on the petition shall state this request in addition to other information required by Section 56.017 of this code.

(b) At the hearing on the petition, the commissioners court shall consider whether or not it will be fair and equitable to levy taxes on the benefit basis, and any person who would be affected by creation of the district may appear before the commissioners court and support or oppose the levy of taxes on the benefit basis.

(c) If the commissioners court finds that creation of and drainage of the district is feasible and practicable under Section 56.019 of this code, the commissioners court shall further determine whether or not the levy of taxes on the benefit basis would be fair and equitable to the landowners in the district.

(d) If the commissioners court determines that levying taxes on a benefit basis would not be fair and equitable to the landowners, the order of the commissioners court shall state these findings, and if the district is created, district taxes shall be levied on an ad valorem basis.

(e) If the commissioners court favors creation of the district and determines that levying taxes on a benefit basis will be fair and equitable to the landowners, the order of the commissioners court shall include these findings and an election shall be called

to create the district and levy taxes on the benefit basis.

(f) Findings of the commissioners court relating to the basis on which taxes will be levied are final and conclusive on all parties.

[Acts 1971, 62nd Leg., p. 521, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.249. Authorizing Taxation on the Benefit Basis for Existing District

(a) A district operating under Article XVI, Section 59, of the Texas Constitution, may levy taxes on the benefit basis as provided in this section.

(b) Any person may present to the commissioners court a petition, signed by 75 of the resident freehold taxpayers of the district whose land would be affected or by one-third of the freehold resident taxpayers of the district whose land would be affected if there are less than 75 in the district, requesting that taxes of the district be levied on the benefit basis and showing that the levy of taxes on the benefit basis will be fair and equitable to all landowners in the district.

(c) At the same meeting at which the petition is presented, the commissioners court shall schedule a hearing on the petition for either a regular meeting or a special meeting called for that purpose to be held during the period beginning on the 30th day and ending with the 60th day after the day the petition is presented.

(d) The commissioners court shall order the clerk to give notice of the time and place of the hearing by posting a copy of the petition and the order of the commissioners court at five public places in the county during the 20-day period immediately preceding the day of the hearing. The clerk shall post one of the copies at the courthouse door and the other four copies at four places within the boundaries of the district, and the district shall pay the clerk \$1 for each notice he posts and five cents a mile for each mile traveled in posting the notices.

(e) At the hearing, any person whose land would be affected may appear before the commissioners court and may support or oppose the levy of taxes on a benefit basis and may offer testimony to show whether or not the levy of taxes on the benefit basis will be fair and equitable to landowners in the district. The commissioners court has exclusive jurisdiction to hear and determine this issue and matters relating to it and has exclusive jurisdiction in all subsequent proceedings. The commissioners court may adjourn the hearing from day to day, and judgments of the commissioners court are final.

(f) If the commissioners court finds that levying taxes on the benefit basis will not be fair and equitable to landowners in the district, an order shall be entered dismissing the petition, and the district shall continue to levy taxes on an ad valorem basis, but if the commissioners court finds that levying taxes on the benefit basis will be fair and

equitable to landowners in the district, the commissioners court shall order an election to be held in the district.

(g) An election to approve the levy of taxes on the benefit basis must be held during the period beginning on the 30th day and ending with the 60th day after the date of the election order. Notice of the election shall be given in the same manner as notice is given for the hearing on the petition. The commissioners court shall name polling places within the district and shall appoint judges and other necessary election officers. The ballots shall be printed to provide for voting for or against the following proposition: "The levy of taxes in the district on the benefit basis."

(h) At least two-thirds of those persons voting in the election must vote in favor of the proposition for it to carry.

(i) If the proposition carries at the election, the order of the commissioners court canvassing the election shall provide that taxes of the district are to be levied on the benefit basis, but if the proposition fails to carry at the election, the order of the commissioners court canvassing the election shall provide that taxes of the district are to continue to be levied on an ad valorem basis.

[Acts 1971, 62nd Leg., p. 521, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.250. Law Governing Districts Levying Taxes on the Benefit Basis

A district that levies taxes on the benefit basis is governed by the provisions of this chapter. However, the rate of taxation and the assessment and collection of taxes is governed by the law relating to ad valorem taxes to the extent applicable and not inconsistent with this chapter.

[Acts 1971, 62nd Leg., p. 522, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 56.251. Determining Acreage in the District

(a) In districts levying taxes on the benefit basis, the commissioners court shall appoint three freehold taxpaying voters in the county as a board to determine the number of acres of land owned by each landowner in the district. The person appointed by the commissioners court shall qualify by taking an oath to fairly and impartially hold hearings and determine acreage.

(b) The board to determine acreage shall give notice of the time and place of the hearing on the acreage before the 10-day period immediately preceding the day of the hearing.

(c) At the hearing each landowner may testify about the amount of land owned by him in the district. The board has final jurisdiction to determine the exact acreage of each landowner in the district.

(d) After the board makes its determination, the land in the district shall be annually placed on the tax rolls according to the acreage determined without rendition of taxes.

[Acts 1971, 62nd Leg., p. 521, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 56.252 to 56.290 reserved for expansion]

SUBCHAPTER H. DISSOLUTION

§ 56.291. Authority to Dissolve a District

Subject to the provisions of Sections 50.251-50.256 of this code, a district created under this chapter may be dissolved as provided in this subchapter.

[Acts 1971, 62nd Leg., p. 523, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.292. Petition

At a regular meeting of the commissioners court, any person may present a petition signed by at least 50 of the resident freehold taxpayers of the district, or if there are less than 100 resident freehold taxpayers in the district, then by one-third of them requesting the dissolution of the district, and the commissioners court shall order an election to be held in the district at the earliest legal time to determine whether or not the district should be dissolved.

[Acts 1971, 62nd Leg., p. 523, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.293. Deposit

(a) Any person filing a petition shall deposit with the county clerk \$200 in cash which shall be held by the county clerk until the result of the election to dissolve the district is officially announced and entered in the record of the commissioners court.

(b) If the result of the election favors dissolving the district, the county clerk shall return the deposit to the petitioners or their agent or attorney, and the cost and expenses of holding the election shall be charged to the district and collected as other debts in this subchapter, but if the result of the election is against dissolving the district, the county clerk shall pay the cost and expenses of the election from the deposit with vouchers signed by the county judge and return the balance of the deposit to the petitioners or their agent or attorney.

[Acts 1971, 62nd Leg., p. 523, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.294. Election

(a) Notice of the election to dissolve the district shall be posted and the election shall be held as provided by this chapter for elections to create a district.

(b) The ballots for the election shall be printed to provide for voting for or against the following proposition: "Dissolution of the drainage district."

(c) For the proposition to carry, two-thirds of those persons voting at the election must vote to dissolve the district.

[Acts 1971, 62nd Leg., p. 523, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.295. Result of the Election

(a) The returns of the election shall be made and the votes canvassed as provided in this chapter.

(b) If the proposition carries, the commissioners court shall declare the result and enter it in its minutes substantially as follows:

“ _____ and _____ others having petitioned for the dissolution of _____ County Drainage District No. _____; an election having been held in the district on _____; and a two-thirds majority of the votes cast in the election having favored dissolution of the district; now, therefore, the commissioners court declares that _____ Drainage District No. _____ is dissolved.”

(c) If the proposition fails to carry, another election for the same purpose may not be held for at least two years after the results of the election are declared.

[Acts 1971, 62nd Leg., p. 523, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.296. Settlement of Debts

(a) When the district is dissolved, the commissioners court shall provide for settlement of debts of the district, including costs and expenses of holding the dissolution election, and may levy and collect a tax on property in the district in the amount necessary to pay all valid debts and obligations of the district except district bonds.

(b) Unless district bonds are retired as provided in Section 56.299 of this code, the bonds shall be paid according to their terms by levy and collection of an annual tax.

[Acts 1971, 62nd Leg., p. 524, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.297. Dissolution Tax

(a) The commissioners court shall determine the amount of debt owed by the district and shall apportion the amount of the debt among the property taxpayers of the district, and a tax shall be levied on each piece of property in the district to pay for its proportionate share of the debt. Each taxpayer may pay his tax annually or in one payment, and the amount of debt apportioned to each tract of land is a lien on that piece of land for the payment of the debt.

(b) Payment of taxes under this section may be made either in money or by surrender of bonds or other evidences of debt of the district. Any holder or owner of debt owed by the district may surrender his bonds and coupons or approved accounts to the district tax collector to pay for taxes owed on prop-

erty in the district which is owned by the holder or owner of the debt, and when surrendered, the bonds or evidences of debt shall be marked paid and a receipt issued for them. The holder of bonds and coupons may only surrender coupons that are matured at the time of their surrender, and unmatured bonds are eligible only to pay unmatured tax liability in advance and only for the year in which the bonds mature.

(c) After taxes are paid as provided in this section, the taxpayer and his property are released from further liability for debts of the district, and the district tax collector shall issue a release and a receipt for the taxes which shall be filed with the clerk of the county court in the county in which the property is located in the manner provided by law for filing documents relating to real estate.

[Acts 1971, 62nd Leg., p. 524, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.298. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 56.299. Retirement of Bonds

If there are outstanding bonds at the time the district is dissolved, the commissioners court may immediately enter into negotiations with the bondholders to retire the bonds before maturity, and if under their terms or by agreement between the commissioners court and the bondholders, the bonds can be retired at an earlier date than appears on their face and if the commissioners court considers retirement to be feasible and practicable, an agreement may be made by the commissioners court providing for paying and retiring the bonds.

[Acts 1971, 62nd Leg., p. 525, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.300. Trustee

On filing and approval of a bond, the county treasurer becomes the trustee for the dissolved district.

[Acts 1971, 62nd Leg., p. 525, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.301. Trustee's Bond

The county treasurer shall execute a good and sufficient bond in a sum to be determined by the commissioners court, payable to and approved by the county judge, conditioned on the faithful performance of his duties as treasurer and trustee of the district and on paying to the parties entitled to it all money and other property which he receives as trustee and treasurer. The bond shall be recorded in the minutes of the commissioners court, and on

approval shall supersede the bond given by the county treasurer as treasurer of the district.

[Acts 1971, 62nd Leg., p. 525, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.302. Trustee's Compensation

(a) The trustee is entitled to receive for his services one percent of all money received by him for the dissolved district and one percent on all money he pays out under this subchapter, but he is not entitled to receive a commission on money controlled by him when the district was dissolved or money relinquished by him at the expiration of his trusteeship.

(b) Only one compensation shall be paid to the trustee for his services as trustee and ex officio treasurer of the dissolved district.

[Acts 1971, 62nd Leg., p. 525, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.303. Powers of the Trustee

(a) The commissioners court shall provide for disposition and sale of district property, and after giving the required bond, the trustee shall assume control from the commissioners court of the district's property, including money in the district treasury and books, notes, accounts, and choses of action.

(b) The trustee may sue any person in possession of property of the district or owing a debt to the district as though the district were still organized and may employ counsel to assist him in all suits and in the care and management of the business of the dissolved district.

[Acts 1971, 62nd Leg., p. 525, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.304. Expenses of the Trustee

(a) The trustee shall charge against the trust estate all reasonable expenses incurred by him in caring for, conducting, and controlling the business of the district, in employing counsel for the district, and in conducting or defending suits, and on posting notice as required in cases of other claims, the trustee shall present the charges to the commissioners court annually at a regular meeting.

(b) On approval by the commissioners court, the expenses become a valid and subsisting claim against the district and may be retained by the trustee out of funds controlled by him as treasurer of the dissolved district.

(c) If the claim for expenses is rejected either in whole or in part, the trustee may appeal the decision as other claimants appeal decisions under this subchapter.

[Acts 1971, 62nd Leg., p. 526, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.305. Presentation of Claims

(a) Within the six-month period immediately following approval of the trustee's bond, any person

who has a claim against the district shall present the claim duly verified to the trustee, and if the trustee finds that the claim is correct, he shall allow the claim, and the claimant shall file the claim with the clerk of the commissioners court before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court.

(b) The clerk shall immediately issue notice of the filing to all persons interested in the district, and the notice shall be posted in three public places and at the courthouse door before the beginning of the 20-day period immediately preceding the next regular meeting of the commissioners court.

[Acts 1971, 62nd Leg., p. 526, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.306. Approval of Claim

(a) At a regular meeting, the commissioners court shall determine the validity of the claim, and if the commissioners court finds that the claim is correct, it shall approve the claim and enter an order of approval in its minutes.

(b) After the claim is approved, it is a valid and subsisting claim against the district and shall be filed with the trustee who shall pay the claim in the order it was filed from the district treasury or from funds collected as liquidation taxes.

[Acts 1971, 62nd Leg., p. 526, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.307. Appeal

If any claimant is not satisfied with the judgment of the commissioners court, he may appeal the judgment in the manner that cases are appealed from the justice court.

[Acts 1971, 62nd Leg., p. 526, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.308. Rejection of Claim

(a) If the trustee finds any claim unjust either in whole or in part, he shall endorse on the claim his refusal to allow it.

(b) If the whole claim is refused, the claimant may bring suit to collect the claim against the trustee in a court of competent jurisdiction in the county, and if the claim is judged valid by the court, the judgment shall be filed with the trustee and paid in its order as other claims.

(c) If the claim is refused only in part and the claimant waives his claim to the part refused, he shall file the claim in the commissioners court for approval, but if the claimant does not waive his claim to the part refused, he shall withdraw his claim from the trustee and may bring suit as provided in Subsection (b) of this section.

[Acts 1971, 62nd Leg., p. 526, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.309. Bonds and Approved Claims

Bonds and approved claims which were outstanding debts of the district before its dissolution are valid and subsisting claims against the district without further approval under this subchapter, but they are subject to contest according to the provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 527, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.310. Contesting Claim

(a) If any district taxpayer files with the trustee a protest against any claim which was allowed by the former drainage commissioners before the district was dissolved and which was unpaid at the time the district was dissolved, the trustee shall refuse to pay the claim. The protest shall be accompanied by a bond in double the amount of the claim with sufficient sureties to be approved by the trustee and payable to the trustee, conditioned on payment by the contestant of all costs of suit if the claimant establishes his claim.

(b) After the trustee rejects the claim, the claimant may bring suit against the trustee to recover the claim as in other suits of a civil nature, and the contestant and his bondsman shall be parties to the suit. The trustee shall make all defenses urged against the claim by the contestant. If the claimant recovers, judgment shall be rendered against the contestant and his bondsman for costs incurred in the suit, and the claimant shall file the judgment with the trustee who shall pay the claim as other claims are paid under this subchapter.

[Acts 1971, 62nd Leg., p. 527, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 56.311. Final Report of Trustee

(a) When all claims against the district are paid and all costs and expenses incurred in controlling and managing the district are satisfied, the trustee shall file with the commissioners court his account for final settlement.

(b) The trustee's account shall include a complete statement of all money received and paid out, of all property controlled and disposed of by the trustee, and of all other matters relating to management of the district's affairs.

(c) On approval of the account, the commissioners court shall direct the trustee to turn over to persons entitled to it as found by the commissioners court all money and property remaining in the control of the trustee, and on compliance with this order, the trustee shall report to the commissioners court, and the commissioners court shall enter an order discharging the trustee and his bondsman and closing the trust estate.

[Acts 1971, 62nd Leg., p. 527, ch. 58, § 1, eff. Aug. 30, 1971.]

SUBCHAPTER I. ADDITION OF LAND

§ 56.714. Adding Land by Petition of Landowner

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.715. Petition Signed and Executed

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.716. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the improvements of the district are sufficient to serve the added land without injuring land already in the district.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.717. Recording Petition

A petition that is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.718. Adding Certain Territory by Petition

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 100.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.719. Hearing on Petition

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.720. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed.

The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.721. Resolution to Add Territory

If the board finds on hearing the petition that the addition would be of benefit to the district and that the district's improvements are sufficient to serve the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.722. Elections to Ratify Annexation of Land

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts, or taxes if the land is added to the district.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.723. Notice and Procedure of Election

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters are governed by Subchapter E of Chapter 58, Water Code.¹

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

¹ Section 58.221 et seq.

§ 56.724. Liability of Added Territory

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, contracted, or authorized by the district to which it is added.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

§ 56.725. Liability of Land Added to a District Operating Under Article XVI, Section 59, of the Texas Constitution

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will

be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district.

[Acts 1981, 67th Leg., p. 2439, ch. 624, § 1, eff. June 15, 1981.]

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CONVERSION TABLE

A conversion table is provided following this Code to enable the user to trace the disposition in the Texas Water Code of the subject matter of articles repealed by Acts 1971, Chapter 58, which enacted the Code.

SUBCHAPTER A. GENERAL PROVISIONS

§ 57.001. Definitions

In this chapter:

- (1) "District" means levee improvement district.
- (2) "Board" means the board of directors of a levee improvement district.
- (3) "Water development board" means the Texas Water Development Board.
- (4) "Commissioners court" means the commissioners court of the county in which the district is located or the commissioners court of the county of jurisdiction.
- (5) "Executive director" means the executive director of the Texas Department of Water Resources.
- (6) "Department" means the Texas Department of Water Resources.
- (7) "Commission" means the Texas Water Commission.

[Acts 1971, 62nd Leg., p. 528, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 30, eff. June 10, 1981.]

[Sections 57.002 to 57.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

§ 57.011. Creation

A levee improvement district may be created in the manner prescribed by this chapter under Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 528, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.012. Petition

(a) Before a district is created, a petition must be presented to the commissioners court or to the county judge of the county if the commissioners court is not in session.

(b) The petition, signed by the owners of a majority of the acreage of the proposed district, shall:

- (1) describe the proposed boundaries of the district;
- (2) state the general nature of the proposed improvements and their necessity and feasibility;
- (3) state whether the taxes proposed to be levied in the district are to be levied on the ad valorem basis or on the benefit basis; and

(4) designate a name for the district which shall include the name of the county in which the district is located.

(c) If the proposed district is composed of land in two or more counties, the petition must designate one of the counties in which any part of the district is to be located as the county of jurisdiction, and this county has jurisdiction over all matters concerning the district.

[Acts 1971, 62nd Leg., p. 528, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.013. Deposit

(a) A petition for creation of a district shall be accompanied by a deposit of \$50, and if the district is to be composed of more than one county, the deposit shall be \$75.

(b) The deposit shall be paid to the clerk of the commissioners court and the clerk shall use the deposit to pay all expenses incident to the hearing on the petition. The clerk shall pay the expenses with vouchers approved by the county judge.

(c) If any of the deposit is left after the expenses are paid, the clerk shall return the excess to the petitioners or their attorney.

[Acts 1971, 62nd Leg., p. 528, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.014. Hearing on Petition

The commissioners court or the county judge to which the petition is presented shall fix a time and place for the hearing on the petition before the commissioners court. The hearing must be held during the period beginning with the 15th day and ending with the 30th day after the date of the order.

[Acts 1971, 62nd Leg., p. 529, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.015. Notice of Hearing

(a) The commissioners court shall order the county clerk to issue notice informing all persons concerned of the time and place of the hearing, and of their right to appear at the hearing to contend for or contest the creation of the district, and the county clerk shall deliver the notice to any adult person who is willing to post it.

(b) The notice shall be posted at the courthouse door and at four different places inside the proposed district. If the district is located in more than one county, the person posting the notice shall post a copy at the courthouse door in each county in which any portion of the proposed district is located and at four separate places inside the boundaries of that portion of the district located in each county. The notice shall be posted for at least 10 days before the date of the hearing.

(c) Any person who posts the notice shall make an affidavit before some officer authorized by law to administer oaths that he posted the notices. The affidavit is conclusive of the sworn facts.

(d) The order of the commissioners court shall direct the county clerk to mail notice of the hearing to the executive director in Austin, Texas. The notice shall state that the petition has been filed and shall include a statement of the petition's general purpose and the time and the place of the hearing.
 [Acts 1971, 62nd Leg., p. 529, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 982, ch. 367, § 31, eff. June 10, 1981.]

§ 57.016. Investigation by Executive Director

(a) When the executive director receives the notice provided for in Section 57.015(d), he shall examine the proposed district, and do the work required to determine the necessity, feasibility, and probable costs of reclaiming the land of the district from overflow and of draining it properly. The executive director shall also determine the costs of organizing the district and maintaining it for two years.

(b) A representative of the executive director shall attend the hearing on the petition to create the district and file a written report with the commissioners court on matters which have been investigated. The executive director shall furnish the commissioners court any additional information that is required.

[Acts 1971, 62nd Leg., p. 529, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.017. Hearing Procedure

(a) The commissioners court has exclusive jurisdiction to determine all issues with respect to the creation of the district and all issues involved in proceedings with respect to the district after it has been created.

(b) The commissioners court may adjourn the hearing from day to day and from time to time.

(c) The commissioners court may make all incidental orders deemed proper with respect to the matters before it.

[Acts 1971, 62nd Leg., p. 529, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.018. Conduct of Hearing

At the hearing, the commissioners court shall hear the petition and all issues with respect to the creation of the proposed district. Any person interested, or his attorney, may appear and contend for or contest the creation of the district and offer testimony pertinent to any issue presented.

[Acts 1971, 62nd Leg., p. 530, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.019. Findings and Judgment

(a) Before the commissioners court determines that the district should be created, it must find:
 (1) that the petition is signed by the owners of a majority of the acreage in the proposed district;
 (2) that notice of the hearing was given;

(3) that the proposed improvements are desirable, feasible, and practicable; and

(4) that the proposed improvements would be a public utility and a public benefit and would be conducive to public health.

(b) If the commissioners court determines that the district should be created, it shall render a judgment which recites its findings and establishes the district.

(c) The commissioners court shall include its findings and judgment in an order which shall be recorded in the minutes of the commissioners court. The order shall define the boundaries of the district, but it does not have to include all of the land described in the petition if at the hearing a modification or change in the district is found to be necessary.

[Acts 1971, 62nd Leg., p. 530, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.020. Appeal of Dismissal of Petition

If at the hearing on the petition the commissioners court enters an order dismissing the petition, the petitioners or any one of them or any taxpayer in the district may appeal the order to the district court of the county.

[Acts 1971, 62nd Leg., p. 530, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.021. Notice of Appeal

(a) Notice of the appeal shall be given by announcement at the time the order of the commissioners court is recorded or by written notice within the two-day period immediately following the entry of the order.

(b) If the notice is announced at the time the order is entered, the notice shall be entered in the minutes of the commissioners court.

(c) Written notice given under this section shall include a simple statement that the undersigned is appealing the order of the commissioners court and shall be filed with the county clerk.

[Acts 1971, 62nd Leg., p. 530, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.022. Appeal Bond

Within five days from the date the order is recorded, the appellant must file an appeal bond with two or more good and sufficient sureties, payable to the county judge, approved by the county clerk, and conditioned upon the due prosecution of the appeal and payment of all costs incident to the appeal. No extension of time will be granted for filing the appeal bond.

[Acts 1971, 62nd Leg., p. 530, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.023. Time for Appeal

Unless the appeal is perfected according to Sections 57.021-57.022 of this code within five days

after the order is rendered, the order shall be final and conclusive.

[Acts 1971, 62nd Leg., p. 531, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.024. Transfer of Records and Orders

Within five days after the appeal bond is filed, the county clerk must transfer to the clerk of the district court all the records filed with the commissioners court which relate to the establishment of the district and a transcript of the orders of the commissioners court. No additional pleadings are required.

[Acts 1971, 62nd Leg., p. 531, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.025. Trial of Appeal and Judgment

(a) The district court shall set the appeal for a hearing. The appeal shall be tried de novo.

(b) The judgment of the district court shall be final and conclusive, and the decision shall be certified to the commissioners court for its further action.

[Acts 1971, 62nd Leg., p. 531, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(45), eff. Aug. 31, 1981.]

§ 57.026. Authorizing Districts to Operate Under This Chapter

(a) Districts that are organized under the laws of this state for the purpose of reclaiming lands through a system of levees and drainage and that are not governed by the provisions of laws of this state are entitled to and may exercise all the rights, powers, and privileges conferred by this chapter on districts created under it. They are also entitled to exercise all of the enlarged powers which may be conferred under Article XVI, Section 59, of the Texas Constitution.

(b) Before a district may operate under the provisions of this chapter, the owners of a majority of the acreage of the district must present to the commissioners court of the county in which the district is located a petition requesting that a hearing be ordered to determine whether or not the district may avail itself of the provisions of this chapter.

(c) The commissioners court shall fix a time and place for the hearing, and give notice according to the provisions of Section 57.015 of this code.

(d) At the hearing the commissioners court shall hear evidence for and against the issue presented by the petition. If it finds that the interests of the district would be promoted by granting the petition, it shall enter a judgment in the record, declaring that:

(1) it is in the interest of the district to avail itself of all rights, powers, and privileges conferred by this chapter on districts created under it;

(2) the district on behalf of which the petition is filed is entitled to and may exercise all rights, powers, and privileges conferred by this chapter on districts created by it; and

(3) the district may exercise all the rights, powers, and privileges as if it were created under this chapter, and shall proceed as if it were created under this chapter.

(e) The decree of the commissioners court shall not in any way injuriously affect any financial liability of the district.

[Acts 1971, 62nd Leg., p. 531, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 57.027 to 57.050 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 57.051. Appointment of Board of Directors

The commissioners court which creates a levee improvement district under this chapter, by majority vote, shall appoint three directors for the district.

[Acts 1971, 62nd Leg., p. 532, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.052. Organization of Board

After the members of the board have qualified, the board shall organize by electing one of its members chairman and one member as vice chairman. The board shall elect a secretary, who need not be a member of the board, and shall certify its organization and the name of the engineer to the court of jurisdiction.

[Acts 1971, 62nd Leg., p. 532, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.053. Term of Office, Removal, and Succession

(a) Each director shall hold office for a period of two years and until his successor is appointed and has qualified.

(b) A vacancy on the board shall be filled by majority vote of the court of jurisdiction, and the court shall appoint directors so that the board will always have full membership.

(c) The court of jurisdiction, by majority vote, may remove a member of the board.

[Acts 1971, 62nd Leg., p. 532, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.054. Director's Bond

(a) Before beginning to perform his duties, each director must execute a bond for \$1,000 with good and sufficient security, approved by the county judge, payable to the district, conditioned that the director will faithfully perform his duties and will render true accounts of his expenses and services.

(b) The commissioners court which has jurisdiction may fix the bond for a larger amount if, in its judgment, the interest of the district requires it.

(c) The bonds shall be filed with the clerk of the commissioners court having jurisdiction, and the clerk shall enter the bonds in the records in his office and retain the bonds in the file.

[Acts 1971, 62nd Leg., p. 532, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.055. Director's Oath

Before beginning to perform his duties, each director shall take and subscribe before some officer authorized to administer oaths an oath to discharge faithfully and impartially his duties as director and to render true accounts of his services and expenses.

[Acts 1971, 62nd Leg., p. 532, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.056. Compensation

Each director is entitled to receive for his services not more than \$50 a day and all his expenses for the time he is actually engaged in work of the district. The commissioners court shall determine the amount of per diem to which a director is entitled, and the expenses will be paid on rendition of a sworn account approved by the county judge of the county which has jurisdiction.

[Acts 1971, 62nd Leg., p. 533, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 644, ch. 144, § 6, eff. May 17, 1983.]

§ 57.057. Election of Board of Directors

After creation of a district, an election may be held to determine whether or not directors for the district will be elected rather than appointed.

[Acts 1971, 62nd Leg., p. 533, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 5a, eff. Aug. 29, 1977.]

§ 57.058. Number of Elected Directors

In districts which have elected boards, there shall be five directors on the board. In countywide districts, one director shall be elected by the electors of the entire district and one director elected from each county commissioners precinct by the electors of that precinct. In other districts, all five directors shall be elected from precincts within the district to be established by the commissioners court.

[Acts 1971, 62nd Leg., p. 538, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 5b, eff. Aug. 29, 1977.]

§ 57.059. Qualifications for Elected Directors

To be qualified for election as a director, a person must be a qualified property taxpaying elector of the precinct and county from which he is elected

and be eligible under the constitution and laws of this state to hold the office to which he is elected.

[Acts 1971, 62nd Leg., p. 533, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.060. Petition

Before an election is held under Section 57.057 of this code, a petition, signed by at least 25 electors in each county commissioners precinct who are qualified to vote at an election for directors if a countywide election, or by 50 electors if less than countywide, shall be presented to the county judge requesting that an election be held in the district to determine whether or not directors for the district should be elected and, if so, to elect directors to serve until the next regular election for state and county officers. The petition shall include the name of one or more nominees for each director's position.

[Acts 1971, 62nd Leg., p. 533, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 5c, eff. Aug. 29, 1977.]

§ 57.061. Procedure for Election

(a) After the petition is presented under Section 57.060 of this code, the county judge shall order an election to determine the propositions presented in the petition. The election shall be held not less than 30 days from the date of the order calling the election, or the propositions may be determined at a general election.

(b) The election order shall designate the polling places which shall be the same as the polling places used in the last general election in the county, if a countywide election is held.

(c) The county clerk shall issue notice of the election and shall have the notice published in a newspaper of general circulation in the county once a week for two consecutive weeks. The first publication must be not less than 14 days before the day of the election.

(d) The sheriff shall post a copy of the notice at least 20 days before the day of the election at each polling place designated in the election order.

(e) The district shall pay all expenses incident to calling and holding the election.

[Acts 1971, 62nd Leg., p. 533, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 5d, eff. Aug. 29, 1977.]

§ 57.062. Terms; Vacancies

(a) The initial directors elected under Section 57.061 of this code shall serve until the next regular directors' election, and subsequent directors shall be elected for four-year terms.

(b) Vacancies in the office of director shall be filled by the remaining directors.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5216, ch. 951, § 11, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 57.063. Compensation

Each elected director is entitled to receive as compensation for his services \$20 for each official meeting which he attends, but he is not entitled to receive more than \$40 in any one month.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.064. District Treasurer

The county treasurer of the county whose commissioners court has jurisdiction of the district shall serve as treasurer of the district.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.065. Treasurer's Bond

(a) The treasurer shall execute a good and sufficient bond, approved by the board, payable to the district, in an amount equal to one and one-fourth of the taxes that are estimated will be collected in any one year, or any further amount the board may require.

(b) The treasurer's bond is conditioned on the faithful performance of his duties as treasurer of the district.

(c) The bond may be made by any guaranty or surety company approved by the board, and the premiums may be paid out of the district's maintenance fund.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.066. Treasurer's Compensation

The treasurer is entitled to receive as compensation for his services not more than one-fourth of one percent of all money received by him for the district.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.067. Engineer and Other Employees

The board shall employ an engineer and other employees or assistants needed to successfully carry on and complete the work and business of the district.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.068. Compensation of Other Officers

(a) A person who performs a service for the district under this chapter is entitled to receive the same compensation as he would receive for similar services rendered as an officer of the county, unless his compensation is expressly provided for in this chapter.

(b) A clerk recording an order under this chapter is entitled to receive the same compensation as a county clerk for recording deeds. A person who posts notice under this chapter is entitled to receive the same compensation as a sheriff would receive for posting notices required by law to be posted by him.

[Acts 1971, 62nd Leg., p. 534, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.069. Court Actions

The district may sue and be sued in its own name in all state courts. State courts shall take judicial notice of the existence of the district.

[Acts 1971, 62nd Leg., p. 535, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.070. District Seal

Districts created under this chapter shall have a common seal, which shall be circular with the name of the district and a five-pointed star in the center.

[Acts 1971, 62nd Leg., p. 535, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 57.071 to 57.090 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 57.091. Purposes of District

A district may be created for the following purposes:

(1) to construct and maintain levees and other improvements on, along, and contiguous to rivers, creeks, and streams;

(2) to reclaim lands from overflow from these streams;

(3) to control and distribute the waters of rivers and streams by straightening and otherwise improving them; and

(4) to provide for the proper drainage and other improvement of the reclaimed land.

[Acts 1971, 62nd Leg., p. 535, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.092. General Powers of District

(a) The district may enter into all necessary and proper contracts and employ all persons and means necessary to purchase, acquire, build, construct, complete, carry out, maintain, protect, and in case of necessity, add to and rebuild all works and improvements within the district necessary or proper to fully accomplish a reclamation plan lawfully adopted for the district.

(b) The powers granted in this section are subject to the supervision and direction of the department or other authority created by law.

[Acts 1971, 62nd Leg., p. 535, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1247, ch. 483, § 1, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 983, ch. 367, § 32, eff. June 10, 1981.]

§ 57.093. Repealed by Acts 1979, 66th Leg., p. 1376, ch. 615, § 3, eff. Aug. 27, 1979

§ 57.094. **Protesting Decision of Commission**

(a) If the board or any interested person is dissatisfied with the action of the commission in finally approving or disapproving any plan of reclamation for the district, the board or the person may, within 15 days after the final action, file suit against the commission in the district court of the county in which the court of jurisdiction is located. The district shall be made a party defendant if the suit is on behalf of any other complaining person.

(b) The petition shall include the cause or causes of objection to the commission's action and shall show what interests of the petitioner are injuriously affected by the action.

(c) Process shall issue as in other cases.

(d) Upon final hearing, the court shall render its judgment and decree approving or disapproving the plan of reclamation, in whole or in part, in the manner that it may find to be equitable and just. The judgment stands for the action of the commission in such matters.

(e) An appeal may be taken, as in ordinary cases, from the judgment of the trial court, and the appeal shall have preference of hearing in the court of civil appeals. The judgment of the court of civil appeals is final and shall stand for the action of the commission with respect to the matters at issue in the suit.

[Acts 1971, 62nd Leg., p. 536, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 800, ch. 291, § 96, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(46), eff. Aug. 31, 1981.]

§ 57.095. **Authority to Go on Land**

(a) The board, the engineer, the employees of the district, and representatives of the executive director are authorized to enter any land or go on any water for the purpose of examining the land with reference to the location of levees, drainage ditches, and all other kinds of improvements to be constructed for the district and for any other lawful purpose connected with their plan of reclamation, and may take any necessary teams, help, and instruments on the land or water.

(b) Any person who wilfully prevents or hinders any district officer from entering the land or going on the water for the purposes authorized by Subsection (a) of this section shall be fined not more than \$25 for each day he prevents or hinders the officer from entering the land or going on the water.

[Acts 1971, 62nd Leg., p. 536, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 33, eff. June 10, 1981.]

§ 57.096. **Acquiring Rights-of-Way**

The board may acquire by gift or condemnation any rights-of-way necessary to construct and main-

tain the levees and other necessary improvements authorized by this chapter and any levee or other improvements already constructed.

[Acts 1971, 62nd Leg., p. 536, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.097. **Rights-of-Way Across Roads**

Districts have the right-of-way across all public or county roads, and shall restore roads which are crossed as near to their previous condition of use as possible.

[Acts 1971, 62nd Leg., p. 536, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.098. **Power of Eminent Domain**

The district may exercise the power of eminent domain to acquire the fee simple title, easement or right-of-way to, over, and through private and public land, water, or land under water, within, bordering upon, adjacent to, or opposite to the district necessary for making, constructing, and maintaining levees and other improvements to prevent the overflow of rivers, creeks, or streams inside or bordering on the district.

[Acts 1971, 62nd Leg., p. 537, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.099. **Eminent Domain Procedure**

(a) The district may acquire property by condemnation for the purposes stated in Section 57.098 of this code if for any reason the board of appraisers has not condemned it under the provisions of Section 57.271 of this code.

(b) Eminent domain proceedings are brought in the name of the district.

(c) Adequate compensation must be paid to the owners of any property taken, damaged, or destroyed for the purposes stated in Section 57.098 of this code.

(d) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code.

[Acts 1971, 62nd Leg., p. 537, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.100. **Construction of Levees**

(a) The district may construct the necessary levees, bridges, and other improvements across or under

- (1) railroad embankments, tracks, or rights-of-way;
- (2) public or private roads or the rights-of-way for the roads; or
- (3) levees, other public improvements, and rights-of-way of other districts.

(b) A district may join its improvements to improvements in another district.

[Acts 1971, 62nd Leg., p. 537, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.101. Construction of Levees by Railroad Companies and Other Authorities

(a) Before the district may construct a levee, bridge, or other improvement across or under any railroad improvement or right-of-way, any road, or any improvement of another district, the board must notify the proper railroad authorities, or other authorities of the additions or changes to result from the improvements planned by the district.

(b) The railroad authorities, or other authorities shall have 30 days from the day they receive the notice to agree or not to agree to do the work at their own expense to construct the improvements in their own manner.

(c) If a railroad or other authority undertakes to construct an improvement for the district, the design or manner of construction must be satisfactory to the district and must be approved by the commission.

[Acts 1971, 62nd Leg., p. 537, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 34, eff. June 10, 1981.]

§ 57.102. Repealed by Acts 1979, 66th Leg., p. 1376, ch. 615, § 3, eff. Aug. 27, 1979

§ 57.103. Injuring Levees

A person who wrongfully or purposely cuts, injures, destroys, or in any manner impairs the usefulness of a levee or other reclamation improvement, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not more than one year or by both.

[Acts 1971, 62nd Leg., p. 538, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.104. Duty to Construct Approved Improvements

The district shall construct all improvements included in the plan of reclamation approved by the commission.

[Acts 1971, 62nd Leg., p. 538, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.105. Notice of Bids

Before the board may award a construction contract, it must publish notice of the intention to award the contract once a week for three consecutive weeks in one or more newspapers with general circulation in the state. A contract may be awarded without publishing notice if the contract is approved jointly by the board and the owners of a majority of the acreage in the district.

[Acts 1971, 62nd Leg., p. 538, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.106. Award of District Contract

The board shall award contracts to construct levees and other improvements necessary to the

district to the lowest and best bidder, and shall execute a written contract which shall be in duplicate and signed by the contractor.

[Acts 1971, 62nd Leg., p. 538, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.107. Interest in a District Contract

If the county judge, a county commissioner, a district director, or the district engineer becomes directly or indirectly interested in a contract for work to be done by the district so that he receives any money consideration or other thing of value other than the compensation provided in this chapter, he shall be confined in the county jail for not less than six months nor more than one year.

[Acts 1971, 62nd Leg., p. 538, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.108. Conditions of Contract

(a) In order to complete the acquisition or construction of planned improvements for the amount of money or bonds available for that purpose, the contract shall include all levee improvements proposed to be constructed and authorized by the approved plan of reclamation.

(b) Contracts may be awarded or entered in sections for the purpose of the purchase, acquisition, construction, and improvement of pumping equipment, reservoirs, culverts, bridges, and drainage improvements as these may become necessary, but as funds are available, the district shall comply with Section 57.104.

[Acts 1971, 62nd Leg., p. 539, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1247, ch. 483, § 2, eff. Aug. 29, 1977.]

§ 57.109. Contractor's Bond

The contractor shall execute corporate surety bonds as required by general law for public works to guarantee the completion of the contract and the payment of laborers, subcontractors, materialmen, and suppliers.

[Acts 1971, 62nd Leg., p. 539, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 3, eff. Aug. 29, 1977.]

§ 57.110. Funds Required Before Contract Awarded

(a) Before the board may award a contract to construct any part of the improvements proposed and authorized by the plan of reclamation, there must be sufficient funds available for the purpose of completing improvements. If a contract is made before sufficient funds are available to complete the improvements, the contract is void and unenforceable in any state court.

(b) A district taxpayer may bring suit to enjoin the performance of or payment of money on a contract made before sufficient funds are available for the completion of the planned improvements.

(c) In case of an urgent necessity or present calamity which makes it necessary to act at once to repair a levee in order to preserve the property in the district, the board may award a contract without sufficient funds being available to complete the improvement.

[Acts 1971, 62nd Leg., p. 539, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.111. Conditioning Contract on Sale of Bonds

After the approval and registration of bonds by the proper state officials as provided in this chapter, the board may award contracts conditioned on the sale of bonds in an amount equal to the contract price.

[Acts 1971, 62nd Leg., p. 539, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.112. Contract Payments

(a) The district shall immediately notify the county treasurer that a contract has been executed.

(b) The county treasurer shall set aside an amount of money in the construction and maintenance fund of the district known as "Special Fund Under Contract, dated _____" (inserting date of contract). This special fund shall be for the full amount of the contract price.

(c) The county treasurer shall pay warrants against the special fund only on accounts sworn to by the contractor and duly audited and approved by the board.

(d) Use or payment of any part of this special fund for any purpose other than the purpose for which it was designated is a diversion of the fund, punishable as provided in Article 94, Texas Penal Code.

[Acts 1971, 62nd Leg., p. 539, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.113. Payment of Contract With Bonds

The board, with the written consent of the county judge, may pay the contractor for improvements constructed in conformity with the contract with bonds of the district, and the bonds may be delivered in installments based on estimates of the engineer as the work progresses.

[Acts 1971, 62nd Leg., p. 540, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.114. Payment for Work Done

(a) The board shall inspect the progress of work under the contract, and on completion of any improvement in accordance with the contract, the board shall draw a warrant on the treasurer for the unpaid amount of the contract.

(b) If the board pays for work as it is completed, it may not pay more than 85 percent of the contract price for that part of the work that is completed.

(c) The amount of work completed shall be shown by estimates of the engineer.

[Acts 1971, 62nd Leg., p. 540, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.115. Duty to Supervise

The board and the engineer shall supervise all work included in the contract to assure that the work is done in accordance with the specifications.

[Acts 1971, 62nd Leg., p. 540, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.116. Engineer's Report

(a) As the work on the plan of reclamation progresses, the engineer shall make a report to the board, showing in detail whether or not the contract is being fulfilled.

(b) When the work is completed, the engineer shall make a detailed report to the board, showing whether or not the contract has been completely fulfilled, and if not, in what particular it has not been fulfilled.

[Acts 1971, 62nd Leg., p. 540, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.117. Inspection and Report by Executive Director

(a) The executive director shall inspect the construction of a levee or other improvement once every 60 days after the construction work has commenced, and if he finds that the work has been done in strict accordance with the contract, the executive director shall certify this fact, and his certificate shall give a full description of the work done up to the date of inspection.

(b) If the executive director finds that the work has not been done in strict accordance with the contract, he shall officially certify this fact, and in the certificate he shall state where the contractor has failed to comply with the approved plan of reclamation.

[Acts 1971, 62nd Leg., p. 540, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.118. Compliance With Contract

After the board receives a report that the contractor has failed to comply with the contract, it shall demand that the contractor comply with the requirements of the approved plan of reclamation at his own expense, and no further accounts, claims or vouchers submitted by the contractor shall be approved or paid until the contractor complies with the requirements of the executive director by constructing the improvement in accordance with the plan of reclamation.

[Acts 1971, 62nd Leg., p. 540, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.119. Interference With Work

A person who wilfully destroys or defaces any corner, line, mark, bench mark, or other object fixed or established in connection with authorized work is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$1,000 or by confinement in the county jail for not less than 30 days or by both.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.120. Authority to Act Jointly

A district may act jointly with other districts, with cities and towns and other political subdivisions of the state, with the State of Texas, with other states, and with the United States in the performance of any of the powers and duties permitted by this chapter. The joint acts shall be done on terms agreed upon by the board, subject to the approval of the commission.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1767, ch. 518, § 1, eff. May 31, 1971; Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.121. Interpretation of District Powers

Except as expressly provided, specific powers authorized by this chapter may not operate as a limitation on the general powers authorized by this chapter.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 57.122 to 57.150 reserved for expansion]

SUBCHAPTER E. PLAN OF RECLAMATION**§ 57.151. Authority of Engineer**

The engineer, subject to the authority of the department, shall control the engineering work of the district.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.152. Permission to Make Survey

The district may apply in writing to the executive director for authority to obtain information by proper surveys on the feasibility of reclaiming lands which may be later incorporated in the district, and if the executive director is satisfied that the applicant is competent and acting in good faith, he shall issue to the applicant express written authority to make surveys to obtain the desired information.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 57.153. Authority to Enter Land

After the engineer receives written authority to make surveys under Section 57.152 of this code, he

may enter any land proposed to be incorporated in the district to examine the land and locate boundary lines and to obtain other information to be used in the formation of the district.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.154. Survey and Report

(a) The engineer shall make a survey of the land inside the boundaries of the district, and land surrounding the district, that will be improved or reclaimed by the system of levees and drainage to be adopted and shall prepare for the board a written report, with maps and profiles, of the results of his survey.

(b) A duplicate of the engineer's report shall be filed with and approved by the commission.

[Acts 1971, 62nd Leg., p. 541, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 35, eff. June 10, 1981.]

§ 57.155. Contents of Report

(a) The engineer's report shall contain a complete plan for draining land, constructing levees on land, and reclaiming land of the district from overflow or damage by waters from streams inside or adjacent to the district which may affect land in the district. The report shall also include a description of the physical characteristics of the land within the district and the location of any public roads, railroads, rights-of-way and roadways, and other improvements on the land of the district.

(b) The plan may include, and where necessary must include, the costs of straightening streams which may injure the land of the district.

[Acts 1971, 62nd Leg., p. 542, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.156. Plan of Reclamation

(a) Before the engineer's report is adopted, the commission or the board, with the approval of the commission, may modify the report.

(b) When the engineer's report is approved by the commission and adopted by the board, it shall be known as "The Plan of Reclamation."

(c) An approved plan of reclamation cannot be modified or changed in any manner if the cost of the plan is over \$1,000 unless a petition, signed by the owners of a majority of the acreage in the district is presented to and approved by the commission.

(d) A copy of the plan of reclamation and of any amendments to it shall be filed with the county clerk in each county in which any land lies which will be affected by the plan of reclamation. The filing is notice of the contents of the plan of reclamation to all persons owning or having any interest in any lands in the county in which it is filed.

[Acts 1971, 62nd Leg., p. 542, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

[Sections 57.157 to 57.170 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

§ 57.171. May Borrow Money

A district may borrow money to accomplish the purposes stated in Section 57.092 of this code.

[Acts 1971, 62nd Leg., p. 542, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.172. District Depository

(a) The board shall select a depository for funds of the district, and the county treasurer shall deposit the funds of the district in the depository as the board directs.

(b) The depository so selected shall provide for the security of the district's funds deposited in demand or time deposits in the manner provided by general law for the security of county deposits.

[Acts 1971, 62nd Leg., p. 542, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1248, ch. 483, § 4, eff. Aug. 29, 1977.]

§ 57.173. Treasurer's Duties

(a) The county treasurer, as treasurer of the district, shall open an account for each district and keep an accurate account of all money belonging to the district, either received or paid out by him.

(b) He shall pay out money only on a voucher signed by two of the directors and countersigned by the county judge, and shall carefully preserve all orders for the payment of money.

(c) The treasurer shall render to the board or the commissioners court as often as they require it a correct account of all matters pertaining to the financial condition of the district.

[Acts 1971, 62nd Leg., p. 543, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.174. Duties of Tax Assessor and Collector

The county assessor and collector shall assess and collect taxes for the district.

[Acts 1971, 62nd Leg., p. 543, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 57.175, 57.176. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of repealed § 57.175, see Disposition Table preceding the Tax Code.

§ 57.177. Financing the District Without Bonds

(a) If the district wants to carry out its plan of reclamation without issuing bonds, the board may arrange for contributions from landowners or other

sources to provide the funds required to complete the improvements.

(b) The electors of the district may vote to create an indebtedness which is not evidenced by bonds.

(c) If the district creates an indebtedness under this section, the indebtedness may not be more than:

(1) the cost of construction of improvements included in the plan of reclamation;

(2) the cost as approved by the commission of maintaining the improvements for two years; and

(3) an additional amount equal to 10 percent to meet emergencies, modifications, and changes lawfully made, plus damages awarded against the district.

[Acts 1971, 62nd Leg., p. 543, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 983, ch. 367, § 36, eff. June 10, 1981.]

§ 57.178. Alternative Authority for Appointment and Duties of District Officials

Notwithstanding any section or provision of this chapter to the contrary, the commissioners court of jurisdiction on its own motion may adopt and enter upon the minutes of such court an order permitting the district to select and appoint a treasurer and tax assessor and collector for the district. Thereafter, the board shall annually select and appoint the district's treasurer and tax assessor and collector and provide for their oaths, bonds, and compensation. Upon the appointment and qualification of such officials, the board and the district treasurer and the district tax assessor and collector shall have the powers, functions, duties, and responsibilities with respect to the levy of taxes, including maintenance taxes, when authorized, and the accounting, payment, investment, and handling of the district's funds, and the assessment and collection of taxes of the district as would otherwise be conferred in this chapter upon the county judge or commissioners court and the county treasurer and county tax assessor and collector respectively.

[Acts 1977, 65th Leg., p. 1248, ch. 483, § 5, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

[Sections 57.179 to 57.200 reserved for expansion]

SUBCHAPTER G. ISSUANCE OF BONDS

§ 57.201. Power to Issue Bonds

The district may issue bonds, but it may not issue bonds nor incur any debt unless an election is held in the district and the proposition is approved by a majority vote of the electors of the district who vote in the election.

[Acts 1971, 62nd Leg., p. 544, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.202. Petition

(a) If a district wants to issue bonds to raise funds for making improvements, a petition shall be

presented to the commissioners court which has jurisdiction or to the county judge if the commissioners court is in vacation. The petition shall be signed by the owners of a majority of the acreage included in the district and shall request the issuance of bonds in the amount stated.

(b) The petition shall state the maximum rate of interest to be borne by the bonds and shall request that an election be held in the district to determine whether or not bonds should be issued by the district for the purposes indicated in this section and for the amount stated and whether or not taxes should be levied in the district to pay for the bonds.

(c) The amount of bonds stated in the petition shall not be more than the sum of:

(1) the estimated cost of the acquisition or construction of improvements to be made according to the adopted plan of reclamation approved by the commission;

(2) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall not be more than two years from the time the bonds are issued as approved by the commission;

(3) the cost of maintenance of the improvements for two years as approved by the commission;

(4) an additional 10 percent to meet emergencies, modifications, and charges lawfully made; and

(5) all damages awarded against the district.

[Acts 1971, 62nd Leg., p. 544, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 6, eff. Aug. 29, 1977; Acts 1981, 67th Leg., p. 983, ch. 367, § 37, eff. June 10, 1981.]

§ 57.203. Election Order

On presentation of a petition for the issuance of bonds, the commissioners court, or the county judge if the commissioners court is not in session, shall order an election in the district to authorize the issuance of bonds. The commissioners court, or the county judge if the commissioners court is not in session, shall set the date for the election in its order and shall enter the election order in its minutes. The election must be held during the period beginning on the 20th day and ending with the 30th day after the date of the order.

[Acts 1971, 62nd Leg., p. 544, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.204. Notice of Election

(a) When the commissioners court of jurisdiction or county judge orders a bond election, the clerk of the commissioners court of jurisdiction shall issue and give to the sheriff a notice stating in substance the contents of the election order and the time and place of the election. The sheriff or his deputy shall post a copy of the notice at the courthouse door and at four different places in the district.

(b) If the district is located in more than one county, the notice may be delivered to any adult person, who shall post copies of the notice at the courthouse of each county in which any portion of the district is located, and at four separate places inside the boundaries of those portions of the district situated in each county.

(c) The notice must be posted for at least the 10-day period immediately preceding the date of the election.

(d) The sheriff or person posting the notice shall make return to the clerk of the commissioners court of jurisdiction, and a return by an individual other than the sheriff must be under oath before some person authorized by law to administer oaths.

(e) The return of the sheriff or any other person under oath is conclusive evidence of the facts stated.

[Acts 1971, 62nd Leg., p. 544, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.205. Conduct of Election

(a) The district is an election precinct for the purpose of bond and other elections held under this chapter, and there shall be at least one polling place in each county in which a portion of the district is located.

(b) The commissioners court or the county judge, whichever orders the election, shall establish polling places for the election and shall appoint a judge and two clerks for each polling place and shall appoint other judges and clerks if necessary. The appointed judges and clerks shall conduct the election, and if a judge or clerk is absent or refuses to serve, the electors shall choose someone to replace him.

(c) The board shall furnish necessary ballots and other supplies for the election, and the ballots shall be printed to provide for voting for or against the following proposition: "The issuance of bonds and the levy of taxes to pay for the bonds."

[Acts 1971, 62nd Leg., p. 545, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.206. Expenses of Election

(a) The petition for a bond election shall be accompanied by a \$200 deposit, which shall be used to pay the expenses of the election and other expenses that may be properly incurred before the bonds are sold and issued.

(b) Any remaining portion of the deposit shall be returned to the petitioners or their attorney; and when the bonds are issued, the expenses paid from the deposit shall be refunded to the petitioners or their attorney from the proceeds of the bonds.

[Acts 1971, 62nd Leg., p. 545, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.207. Declaring Result of Election

(a) Immediately after an election under this chapter, the officials holding the election shall return the result to the commissioners court of jurisdiction.

(b) The election officials shall return the ballot boxes to the clerk of the commissioners court of jurisdiction, who shall safely keep the boxes and deliver them with the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) The commissioners court of jurisdiction at its first session after the election shall canvass the vote and the returns. If the proposition submitted has been approved by a majority of the electors of the district voting at the election, the commissioners court of jurisdiction shall declare the result in favor of the proposition, but if the proposition is not approved by the electors of the district, the commissioners court of jurisdiction shall declare the result to be against the proposition.

(d) The commissioners court of jurisdiction shall enter an order declaring the election result in its minutes.

[Acts 1971, 62nd Leg., p. 545, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.208. Issuance of Bonds

(a) If the issuance of bonds and the levy of taxes to pay for the bonds are approved by the electors of the district, the board may order the issuance of the bonds in one or more installments as the board may deem necessary from time to time up to the amount approved at the election.

(b) The bonds shall be known as "Levee Improvement Bonds" and shall state on their face the purpose for which they are issued.

(c) The bonds shall be:

- (1) issued in the name of the district;
- (2) signed by the chairman of the board; and
- (3) attested by the secretary of the board with the seal of the district affixed to the bonds.

(d) The board shall fix the denominations, terms and conditions of the bonds and make them payable at an expedient time not more than 30 years from the date on the bonds.

[Acts 1971, 62nd Leg., p. 546, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 7, eff. Aug. 29, 1977.]

§ 57.209. Approval of Bonds by Attorney General

(a) Before the bonds are delivered to the purchasers, a certified copy of all proceedings relating to organization of the district and issuance of the bonds and other relevant information shall be sent to the attorney general.

(b) The attorney general shall carefully examine the bonds, with regard to the record and the constitution and laws of this state governing the issuance

of bonds, and the attorney general shall officially certify the bonds if he finds that they conform to the record and the constitution and laws of this state and are valid and binding obligations of the district.

[Acts 1971, 62nd Leg., p. 546, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1249, ch. 483, § 7, eff. Aug. 29, 1977.]

§ 57.210. Registering Bonds

(a) After the attorney general approves and certifies the bonds, the comptroller shall register them in a book kept for that purpose and shall record the certificate of the attorney general.

(b) After the bonds are certified by the attorney general and registered by the comptroller, they are prima facie valid in any action, suit, or proceeding, and in an action brought to enforce collection of the bonds and interest on the bonds, the only defense against the validity of the bonds is forgery or fraud.

[Acts 1971, 62nd Leg., p. 546, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.211. Sale of Bonds

(a) After the bonds are approved by the electors of the district, the board may appoint the county judge or another suitable person to assist in the sale of the bonds on the best terms and for the best price possible.

(b) The board shall give notice of all bond sales in the manner prescribed by Section 50.053, Water Code, as added by Chapter 262, Acts of the 63rd Legislature, Regular Session, 1973, and shall approve all bond sales, and no sale is complete until approved by the board.

(c) The county judge or other person appointed by the district to assist in selling the bonds is entitled to receive, as full compensation for his services in selling the bonds, an amount approved by the board.

(d) The board shall promptly pay the proceeds from the bond sales to the proper treasurer or depository, to the credit of the district.

[Acts 1971, 62nd Leg., p. 546, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1250, ch. 483, § 8, eff. Aug. 29, 1977.]

§ 57.212. Bond Record

(a) After the bonds are issued, the board shall deliver a well-bound book to the county treasurer of the county of jurisdiction, who shall keep in the book a record of:

- (1) all bonds which have been issued;
- (2) the number of each bond;
- (3) the amount of each bond;
- (4) the rate of interest on each bond;
- (5) the date of issuance of each bond;
- (6) the date when each bond is due;
- (7) the place where each bond is payable;
- (8) the amount received for each bond; and

(9) the tax levy to provide a sinking fund to pay principal of and interest on the bonds.

(b) The treasurer shall keep the book open at all times for inspection by any taxpayer or bondholder, and when a person pays for a bond, the treasurer shall enter the payment in the book.

(c) The county treasurer is entitled to receive for his services in keeping a record of the bonds the same fee allowed by law to the county clerk for recording deeds.

[Acts 1971, 62nd Leg., p. 547, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.213. Refunding Bonds

(a) With the consent of the bondholders, a district may refund outstanding bonds by issuing new coupon bonds in their place.

(b) Interest is shown by coupons attached to the bonds, and the commissioners court of jurisdiction shall determine whether the board will pay the interest on the bonds annually or semiannually.

(c) The board may pay the refunding bonds serially or in any other manner they choose, but, except as provided in Subsection (d) of this section, they shall pay the bonds not later than 40 years from the date the bonds are issued.

(d) A district that taxes on the benefit basis and that is located in a county with a population of over 800,000, according to the last preceding federal census, may refund outstanding bonds or matured interest coupons on bonds issued by the district with new coupon bonds payable not more than 75 years from their date.

(e) The district shall issue the bonds in denominations of \$100 or a multiple of \$100 and, before the bonds are delivered, shall levy a tax sufficient to pay the principal of and interest on the refunding bonds. The refunding of bonds does not affect any taxes already due.

(f) The board shall issue refunding bonds in the manner provided for other district bonds.

(g) The board shall deduct any money on hand in the sinking fund account to ascertain the amount of refunding bonds to be issued and shall apply the money to the payment of the outstanding bonds.

(h) The board may not issue refunding bonds until they are approved by the attorney general and registered by the comptroller, and the comptroller shall not register the refunding bonds until the old bonds being replaced are presented to him for cancellation. After the comptroller registers the new bonds, he shall cancel the old bonds and interest coupons and deliver the new bonds to the proper bondholders. The old bonds may be presented for cancellation in installments, and the comptroller

may register and deliver a like amount of the new bonds.

[Acts 1971, 62nd Leg., p. 547, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 598, ch. 237, § 140, eff. Sept. 1, 1981.]

§ 57.214. Issuance of Refunding Bonds Without an Election

A district which is converted under Article XVI, Section 59, of the Texas Constitution, may issue refunding bonds without the approval of the electors under the provisions of Section 56.210 of this code.

[Acts 1971, 62nd Leg., p. 548, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.215. Investment of Sinking Fund

The board or commissioners court of jurisdiction may invest the district's sinking funds in county, municipal, district, or other bonds in which other sinking funds may by law be invested and also may invest the sinking funds in bonds of the series to which the funds apply if the bonds are offered for redemption before maturity on terms considered advantageous to the district.

[Acts 1971, 62nd Leg., p. 548, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.216. Providing for Additional Funds

(a) If the improvements in the plan of reclamation adopted for the district are insufficient to reclaim all of the land and other property inside the district, extensive repairs or additions to the improvements are necessary, or additional funds are needed to complete improvements, the board may provide additional funds for the district by following the provisions of this chapter for raising funds for the original plan of reclamation.

(b) If the board creates additional indebtedness or issues additional bonds, the indebtedness or bonds are subject to the provisions of this chapter relating to the issuance of bonds. The new or amended plan of reclamation must be approved by the commission.

[Acts 1971, 62nd Leg., p. 548, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 38, eff. June 10, 1981.]

§ 57.217. Eligibility of District Bonds for Investments and Public Funds

A district's bonds, when certified and approved by the attorney general and registered by the comptroller as herein provided, shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and

bodies politic. A district's bonds shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unma-
 tured interest coupons attached to them.

[Acts 1977, 65th Leg., p. 1250, ch. 483, § 9, eff. Aug. 29, 1977.]

[Sections 57.218 to 57.250 reserved for expansion]

SUBCHAPTER H. TAX PROVISIONS

§ 57.251. Levy of Taxes on the Ad Valorem Basis

(a) If a district levies taxes on the ad valorem basis, it shall levy and have assessed and collected taxes on all taxable property in the district.

(b) The taxes must be sufficient to pay the interest on the bonds as it is due, and to raise a sufficient amount to create a sinking fund to redeem and discharge the bonds at maturity.

[Acts 1971, 62nd Leg., p. 548, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1251, ch. 483, § 10, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 57.252 to 57.257. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of repealed § 57.255(a), see Disposition Table preceding the Tax Code.

§ 57.258. Assessment and Collection of Taxes for Districts With Land in More Than One County

(a) A district providing for the levy of taxes on the ad valorem basis which includes land located in more than one county has all the rights, powers, and privileges of districts that include land in one county.

(b) The assessor and collector of each county having land included in the district shall assess the taxes levied by the commissioners court of his county against the land in his county which is included in the district for each year that a tax is levied.

(c), (d) Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.

[Acts 1971, 62nd Leg., p. 549, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982.]

Section 1 of Acts 1979, 66th Leg., ch. 841, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 57.259. Assessment of Damages

(a) In a district which levies taxes on the ad valorem basis, the commissioners of appraisalment

shall be appointed and shall act in the manner provided in Sections 57.261-57.270 of this code, except that persons appointed under this section may not assess benefits.

(b) Proceedings, notice, and hearings shall be governed by the provisions of this chapter relating to assessment of taxes on the benefit basis.

(c) Provisions of this chapter relating to assessment of damages in districts levying taxes on the benefit basis shall apply to assessment of taxes on the ad valorem basis.

[Acts 1971, 62nd Leg., p. 550, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.260. Levy of Taxes on Benefit Basis

(a) If a district levies taxes on the benefit basis, the commissioners court of each county in which any portion of that district is located shall levy and have assessed and collected taxes on all taxable property inside the district, based on the net benefits which the commissioners of appraisalment find will accrue to each piece of property from the completion of the plan of reclamation or other authorized improvement.

(b) The taxes shall be sufficient to pay the interest on the bonds, as it is due, and to raise an amount to create a sinking fund sufficient to discharge and redeem the bonds at maturity.

(c) The levy for each year throughout the life of the bond issue may be made at the time the bonds are issued and shall be the rate of levy for each year until it is modified.

[Acts 1971, 62nd Leg., p. 550, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.261. Appointment of Commissioners of Appraisalment

After the plan of reclamation is approved and adopted, the commissioners court of the county of jurisdiction in a district levying taxes on the benefit basis shall appoint three disinterested commissioners, known as "commissioners of appraisalment."

[Acts 1971, 62nd Leg., p. 550, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.262. Qualifications for Commissioners of Appraisalment

The commissioners of appraisalment shall be freeholders, but not owners of land within the district for which they are to act, and shall not be related within the fourth degree of affinity or consanguinity to any of the members of the commissioners court of jurisdiction, the board, or to any landowners in the district.

[Acts 1971, 62nd Leg., p. 550, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.263. Compensation of Commissioners of Appraisalment

(a) The commissioners of appraisalment in their report shall show the number of days each has been employed and the actual expenses each has incurred during his service as commissioner.

(b) The district shall pay each commissioner of appraisalment \$5 a day for his services and reimburse him for all necessary expenses when his accounts are approved by the board.

[Acts 1971, 62nd Leg., p. 550, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.264. Organization of Commissioners of Appraisalment

(a) The secretary of the board shall notify each of the commissioners of appraisalment in writing of his appointment and of the time and place for the first meeting.

(b) The commissioners of appraisalment shall meet at the time and place specified, or as soon after that time as practicable, at a time and place agreed on by them.

(c) The commissioners of appraisalment shall each take and subscribe an oath to faithfully and impartially discharge their duties as commissioners, and to make a true report of the work done by them.

(d) At the first meeting the commissioners of appraisalment shall organize by electing one of their number chairman and one vice chairman. The secretary of the board or in his absence, a person the board appoints, shall be secretary of the commissioners of appraisalment during their continuance in office.

(e) The secretary shall furnish the commissioners of appraisalment information and assist them in the performance of their duties.

(f) If a commissioner of appraisalment resigns, the vacancy shall be filled in the manner provided for filling vacancies on the board.

[Acts 1971, 62nd Leg., p. 551, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.265. Duties of Commissioners of Appraisalment

(a) The commissioners of appraisalment shall begin to perform their duties within 30 days after qualifying and organizing.

(b) The commissioners of appraisalment may at any time call on the attorney of the district for legal advice and information and, if necessary, may require the engineer or one of his assistants to assist in the proper performance of their duties.

(c) The commissioners of appraisalment shall view:

- (1) the land inside the district;
- (2) other land which will be affected by the plan of reclamation if carried out;

(3) all public roads, railroads, rights-of-way, and other property or improvements located on the land; and

(4) land inside or outside the district which may be acquired under the provisions of this chapter for any purpose connected with or incident to carrying out the plan of reclamation.

(d) The commissioners of appraisalment shall assess the amounts of benefits and all damages that will accrue to any tract of land inside the district or any land outside the district which may be affected by the plan of reclamation, or any public highway, railroad, right-of-way, roadway, or other property.

(e) The commissioners of appraisalment shall assess the value of all land inside or outside the district to be acquired for right-of-way or other purposes.

[Acts 1971, 62nd Leg., p. 551, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.266. Report of Commissioners of Appraisalment

(a) The commissioners of appraisalment shall prepare a report of their findings. The report shall include:

(1) the name of the owner of each piece of property examined and assessed;

(2) a description which will identify each piece of property; and

(3) the value of all property to be taken or acquired for rights-of-way or any other purposes connected with carrying out the plan of reclamation as finally approved by the commission.

(b) At least a majority of the commissioners of appraisalment shall sign the report. They shall file the report with the secretary of the board.

(c) The failure of the commissioners of appraisalment to return damages to any tract of land inside or outside the district shall be considered a finding that no damage will be done to that tract.

(d) The commissioners of appraisalment in their report shall fix a time and place to hear objections to the findings in the report. The date for the hearing shall not be less than 20 days from the filing of the report.

[Acts 1971, 62nd Leg., p. 552, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 39, eff. June 10, 1981.]

§ 57.267. Notice of Hearing

(a) After the commissioners of appraisalment file their report with the secretary of the board, the secretary shall publish notice of the time and place of the hearing on the report.

(b) The notice shall be published in a newspaper published in each county in which any part of the district is located, or in which any land lies that will be in any way affected by the proposed plan of reclamation. The notice shall be published once a

week for two consecutive weeks before the date of the hearing.

(c) The notice shall be in substantially the following form:

To the owners and all other persons having any interest in land lying in _____ County, take notice, that a copy of the plan of reclamation of the _____ Levee Improvement District has been filed with the county clerk of this county and that the commissioners of appraisal have been appointed to assess benefits and damages accruing to land or other property inside or outside the levee district which will be benefited, taken, damaged, or affected in some way by the carrying out of the plan of reclamation. The report of the commissioners of appraisal has been filed in my office at _____, and all interested persons may examine the report and make an objection to all or any part of the report. A person who claims damage to his land and to whose land no damages have been assessed in the report must file a claim for damage in my office on or before _____, 19____. A person who fails to make an objection or to file a claim for damages is deemed to have waived his right to object or claim damages. The commissioners of appraisal will meet on _____, 19____, to hear and act on objections to their report and claims for damages.

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(d) The secretary shall mail written notice to each person whose property is listed in the report of the commissioners of appraisal, if the office address is known. This notice shall state in substance:

(1) that the report of the commissioners of appraisal assessing benefits and damages accruing to land and other property because of the plan of reclamation for the district has been filed in the secretary's office;

(2) that all persons interested may examine the report and make objections to it in whole or in part; and

(3) that the commissioners of appraisal will meet on the day and at the place named to hear and act on objections to the report.

(e) The secretary, on the day of the hearing, shall file in his office the original notice, with his affidavit, which shall show the manner of publication and the names of all persons to whom notices have been mailed. The affidavit shall state that the secretary could not with reasonable diligence ascertain the post-office addresses of those affected to whom no notices were mailed.

(f) The secretary shall file copies of the notice and his affidavit with the commissioners of ap-

praisalment and with the clerk of the commissioners court of jurisdiction.

[Acts 1971, 62nd Leg., p. 552, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.268. Rights of Parties

Parties interested in matters before the commissioners of appraisal may appear in person or by attorney, or both, and are entitled to process for witnesses, to be issued by the chairman of the commissioners of appraisal on demand. The commissioners of appraisal have the same power as a court of record to enforce the attendance of witnesses.

[Acts 1971, 62nd Leg., p. 553, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.269. Hearing; Judgment

(a) An owner of land or other property affected by the report of the commissioners of appraisal or by the plan of reclamation may file an objection to any or all parts of the report of the commissioners of appraisal at or before the hearing on the report.

(b) A person on whose land no damages have been assessed and who believes that his land will be damaged by prosecution of the plan of reclamation may file with the secretary of the board a claim for damages.

(c) The commissioners of appraisal, at the time and place named in the notice, shall hear and decide all objections and claims for damages and may make changes and modifications in the report.

(d) The commissioners of appraisal may adjourn the hearing from day to day.

(e) After modifying the report to conform to the changes decided on at the hearing, the commissioners of appraisal shall make a decree confirming the report as modified.

(f) If necessary the commissioners shall condemn and adjudge damages for land inside or outside the district that is needed for right-of-way or other purposes.

(g) The commissioners shall adjudge and apportion costs incurred on the hearing in an equitable manner.

(h) The findings of the commissioners of appraisal as to benefits is final and conclusive.

(i) The secretary shall record the findings of benefits in the minutes of the board and shall file certified copies of the findings with the county clerk of each county in which any portion of the land inside the district is located, as a permanent record of the county. The filing is notice to all persons of the contents of the decree.

[Acts 1971, 62nd Leg., p. 553, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.270. Appeal of Decree of the Commissioners of Appraisalment

(a) A person or the board may appeal from the decree of the commissioners of appraisalment assessing or refusing to assess damages or fixing the value of a right-of-way.

(b) The only questions considered on an appeal are:

- (1) whether or not just compensation has been allowed for property taken;
- (2) whether or not proper damages have been allowed for property injured; or
- (3) whether or not in fact property has been damaged.

(c) The appeal shall be taken to the district court of the county of jurisdiction in the manner, under the conditions, and within the time provided by Sections 57.020-57.025 of this code for appeals from judgments of the commissioners court refusing to create the district.

(d) The district court has jurisdiction of the appeal regardless of the amount claimed.

(e) The secretary in not less than five days after the appeal is filed shall send to the district clerk:

- (1) the plan of reclamation or a certified copy of it;
- (2) a transcript of that part of the commissioners of appraisalment's report affecting the lands concerned in the appeal;
- (3) a transcript of the claim for damages; and
- (4) a transcript of the action of the commissioners of appraisalment on the claim.

(f) Appeals may be consolidated in the district court.

(g) The trial in the district court shall be de novo, and the proceedings shall be in accordance with the laws of this state for damage suits.

(h) The claimant is considered the plaintiff, and the district, the defendant, and no further pleadings are required.

(i) Appeals may be taken from the judgment of the district court as in other civil cases.

(j) No appeal may delay carrying out the plan of reclamation, and if the board pays to the district clerk the amount of damages awarded by the commissioners of appraisalment to a claimant who is appealing their decree, and if the board makes bond to pay to the claimant any additional amount that he may be awarded on his appeal, title to the condemned property that is the subject of the appeal vests in the district, and the district is entitled to immediate possession.

(k) No person may claim damages against the district, its board, officers, or agents because of the prosecution of the plan of reclamation if he owns or has an interest in land in a county in which a copy of the plan of reclamation has been filed and in which notice has been published of the hearing

before the commissioners of appraisalment, and he has failed to file a claim for damages or an objection to the damages assessed by the commissioners of appraisalment against his land, or if he has filed a claim or objection but has failed to appeal from an adverse ruling on his claim or objection.

[Acts 1971, 62nd Leg., p. 554, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.271. Basis of Taxation

(a) After the action of the commissioners of appraisalment, as provided in Sections 57.261-57.270 of this code, their final findings, judgment and decree assessing benefits, until changed or modified, shall form the basis of taxation for the district, for all purposes for which taxes may be levied by the district.

(b) Taxes shall be apportioned and levied on each tract of land, railroad, and other real property in the district in proportion to the benefits to the property named in the decree of the commissioners of appraisalment.

[Acts 1971, 62nd Leg., p. 555, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.272. Tax Assessor for Districts Levying Taxes on Benefit Basis

(a) The secretary of the board shall serve as tax assessor for a district levying taxes on the benefit basis.

(b) When a tax is levied, the secretary shall, at the expense of the district, prepare a tax roll substantially in the same form as the assessment roll made by county assessor and collector, except the roll shall state net benefits assessed against property.

(c) The secretary shall compute the amount of taxes assessed against each piece of property and enter the amount on the tax roll and shall file with the assessor and collector of each county in which a portion of the district is located a certified copy of the part of the tax roll which relates to property in the district located in that county.

[Acts 1971, 62nd Leg., p. 555, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.273. Readjusting Assessments

(a) After one year from the date of the final judgment and decree of the commissioners of appraisalment the owners of a majority of the acreage in the district may file a petition with the commissioners court alleging that the previous assessment of benefits in the judgment and decree is insufficient or inequitable and requesting an increase or readjustment of the assessment of benefits for the purpose of making an adequate or more equitable basis for levying taxes.

(b) If the plan of reclamation is changed or modified, or if extensive repairs or additions to the plan of reclamation are desired, the board shall file a

petition with the commissioners court describing the changes, modifications, repairs, or additions.

(c) When a petition is filed, the commissioners court shall set a day for a hearing on the petition.

(d) The commissioners court shall issue notice informing all persons concerned of the time and place of the hearing, and of their rights to appear and contend for or contest a reassessment of benefits. The notice must be posted as provided in Section 57.015 of this code for posting notice of the hearing for establishing the district.

[Acts 1971, 62nd Leg., p. 555, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.274. Hearing on Petition for Reassessment

(a) At the hearing on readjustment of assessments, the commissioners court shall hear the petition and receive evidence for or against the petition.

(b) The commissioners court shall order a reassessment of benefits if it finds that the aggregate amount of assessed benefits as shown by the previous final judgment and decree is insufficient to carry out the original plan of reclamation or changes, repairs, or additions to the plan or there has been a material change in the relative value of the benefits conferred on the property in the district, or for some reason the assessment of benefits is inadequate or inequitable.

(c) If the commissioners court orders a reassessment, it shall appoint commissioners of appraisal as provided in Section 57.263 of this code, and the new commissioners of appraisal have the same powers, rights, privileges, and duties as provided in Section 57.267 of this code.

[Acts 1971, 62nd Leg., p. 555, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.275. Tax Collection on Reassessment

(a) The judgment and decree of the commissioners of appraisal reassessing benefits in the district are the basis of the assessment of taxes in the district.

(b) The assessment can again be modified or changed but there can be no reassessment of benefits that will in any way render any outstanding bonds or other indebtedness of the district insecure. The sum of benefits as reassessed may never be less than the sum of all outstanding bonds and other indebtedness of the district.

(c) The commissioners court of each county in which the district is located shall levy and have assessed and collected taxes based on the reassessment, at a rate sufficient to provide funds to pay the interest on all outstanding bonds and other indebtedness of the district, to pay the bonds or other indebtedness at maturity, and to provide the necessary sinking funds to pay all bonds or other indebtedness that may be issued.

(d) If the plan of reclamation is modified, or if extensive repairs or additions are made, the provisions of this section apply to districts that levy taxes on the ad valorem basis, but the commissioners of appraisal shall assess only the damages which will accrue to the property inside or outside the district as a result of the changes in the plan.

[Acts 1971, 62nd Leg., p. 556, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.276. Maintenance Tax Election

(a) If the board desires an election in the district on the question of a maintenance tax or other proposition, they shall petition the commissioners court of jurisdiction for an election.

(b) The commissioners court shall order the election, and notice shall be given and the election shall be held according to the provisions of Sections 57.203-57.207 of this code.

(c) The proposition in a maintenance tax election may be for a specific tax rate, or for a specific maximum rate.

[Acts 1971, 62nd Leg., p. 556, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.277. Levy of Maintenance Tax

(a) If a maintenance tax is approved at an election, the commissioners court of each county in which any portion of the district is located shall levy and have assessed and collected taxes on all taxable property inside the district based on the net benefits to the property that will be accomplished by the plan of reclamation if the district provides for levying taxes on a benefit basis or on the value of each piece of property if the district provides for levying taxes on the ad valorem basis.

(b) The tax rate shall not be more than the specific rate approved at the election.

(c) The district shall use money obtained from the maintenance tax only for maintenance, upkeep, and repair, to make additions to the levees and other improvements in the district, and for other purposes stated in this chapter.

[Acts 1971, 62nd Leg., p. 556, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 57.278. Repeal of Right to Levy Maintenance Tax

(a) The district may levy a maintenance tax until the authority to levy a maintenance tax is repealed by another election.

(b) The district may not hold elections on the question of repealing or reducing the maintenance taxes more often than every five years.

[Acts 1971, 62nd Leg., p. 557, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.279. Collection of Delinquent Taxes

(a) Taxes levied on the benefit basis under this chapter are a first and prior lien on all property against which they are assessed and are payable, mature, and become delinquent as provided in the Property Tax Code for ad valorem taxes.

(b) The Property Tax Code governs the collection of delinquent taxes levied on the benefit basis and the sale of property for the payment of the taxes.

[Acts 1971, 62nd Leg., p. 557, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 57.280 to 57.284. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed sections, see Disposition Table preceding the Tax Code.

[Sections 57.285 to 57.320 reserved for expansion]

SUBCHAPTER I. DISSOLUTION

§ 57.321. Dissolution of a District

Subject to the provisions of Sections 50.251-50.256 of this Code, if the commissioners court finds at any time before the sale of a district's bonds or final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully accomplished, the commissioners court may dissolve the district.

[Acts 1971, 62nd Leg., p. 560, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.322. Requirements for Dissolving a District

(a) To dissolve a district, a petition signed by the owners of a majority of the acreage in the district requesting the commissioners court to dissolve the district and stating the reasons for dissolution must be presented.

(b) At the time the petition is filed, a \$50 deposit shall be made to pay for the expenses of a hearing on the petition.

(c) The petition shall be set for a hearing, notice shall be given, the hearing held, and the expense deducted from the deposit in the manner provided in this chapter for creation of the district.

(d) The commissioners court has the same powers over dissolution of a district that it has over creation of a district.

(e) If at the hearing the commissioners court finds that the district should be dissolved, it shall render a judgment reciting its findings and enter an order on its records declaring the district dissolved.

(f) The commissioners court shall appoint the chairman of the board or some other suitable person as trustee to close the affairs of the district without

delay, and shall determine the length of the term and the amount of compensation for the trustee.

(g) If the commissioners court finds that the district should not be dissolved, it shall dismiss the petition at the cost of the petitioners and enter its findings on record.

[Acts 1971, 62nd Leg., p. 560, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.323. Return of Taxes on Dissolution

(a) If a district is dissolved, the commissioners court shall order returned to the taxpayers ratably any unspent taxes that have been levied and collected in the name of the district in anticipation of an issue of bonds.

(b) Before the taxes are returned, the compensation due the assessor and collector and the treasurer and any other claim properly charged against the taxes must be deducted from them.

(c) The treasurer shall receive and file proper receipts for all sums refunded.

[Acts 1971, 62nd Leg., p. 560, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.324. Dissolving a District by Election

A district may dissolve its corporate existence by election.

[Acts 1971, 62nd Leg., p. 560, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.325. Petition

To dissolve a district by election, a person shall present a petition, signed by the owners of a majority of the acreage in the district, to the commissioners court at a regular session, requesting the commissioners court to dissolve the district.

[Acts 1971, 62nd Leg., p. 560, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.326. Election Order

(a) After it receives a petition under Section 57.325 of this code, the commissioners court shall order an election to be held in the district at the earliest possible legal time to determine whether or not the district should be dissolved.

(b) If the proposition to dissolve the district fails to carry at the election, the commissioners court may not order another election for the same purpose within one year after the result of the election has been announced officially.

[Acts 1971, 62nd Leg., p. 561, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.327. Election Procedure, Time, and Place for Holding Election

The provisions of Sections 57.203-57.207 of this code apply, so far as possible, to a dissolution election.

[Acts 1971, 62nd Leg., p. 561, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.328. Ballot

The commissioners court shall have the ballots printed to provide for voting for or against the following proposition and no other: "Dissolving the levee improvement district."

[Acts 1971, 62nd Leg., p. 561, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.329. Vote Necessary to Carry Proposition

More than two-thirds of the persons voting in the election must vote to dissolve the district to carry the proposition.

[Acts 1971, 62nd Leg., p. 561, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.330. Commissioners Court Order Dissolving District

(a) If the proposition to dissolve the district carries, the commissioners court shall make an order substantially as follows: "(Name of petitioner) and (number of other petitioners) others presented a petition asking for an election to decide whether or not (name of county) County Levee Improvement District (district number) should be dissolved. The commissioners court held the election on (date), and more than two-thirds of the resident property taxpayers voting in the election voted to dissolve the district. As a consequence of the election result, (name of county) County Levee Improvement District (district number) is dissolved."

(b) The commissioners court shall enter the order in its minutes.

[Acts 1971, 62nd Leg., p. 561, ch. 58, 1, eff. Aug. 30, 1971.]

§ 57.331. Dissolution Trustees

The commissioners court shall appoint as trustees, three landowners of the district, and the three appointed landowners assume the duties of trustees at the time they file the bond required under Section 57.332 of this code.

[Acts 1971, 62nd Leg., p. 561, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.332. Trustees' Bond

(a) When the commissioners court issues the dissolution order under Section 57.330 of this code, the trustees shall execute jointly a good and sufficient bond in an amount sufficient to cover the amount of the outstanding bonds and other debts of the district, payable to and approved by the county judge, conditioned on the trustees faithfully performing their duties as trustees and paying money and delivering other property of the district over which they have control to the persons entitled to the money or other property.

(b) When the bond is executed, it shall be recorded in the minutes of the commissioners court. When the bond is approved, it supersedes the bond

the treasurer executed under Section 57.065 of this code.

[Acts 1971, 62nd Leg., p. 561, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.333. Trustees' Compensation

(a) The trustees are entitled to receive for their services as trustees a one-half of one percent commission on all money they receive for the district and a one-half of one percent commission on all money they pay out as trustees. This commission is the entire compensation for all three trustees.

(b) The trustees are not entitled to a commission on money in the treasury when they become the trustees or on money in the treasury when their trusteeship ends.

[Acts 1971, 62nd Leg., p. 562, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.334. Appointment of Trustee to Fill Vacancy

In case of death or resignation of a trustee, the commissioners court shall appoint a successor to fill the vacancy.

[Acts 1971, 62nd Leg., p. 562, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.335. General Duties of Trustees

(a) The trustees have control of the disposition and sale of all district property.

(b) The trustees have control of all the property of the district, including the money in the treasury, and shall keep the district's money and all its books, notes, accounts, and choses in action of every kind.

(c) The trustees may sue to recover property and collect debts of the district, and may employ counsel in suits and in caring for the district's property and managing the district's dissolution.

[Acts 1971, 62nd Leg., p. 562, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.336. Trustees' Expense

(a) The trustees shall make a charge against the trust estate for each reasonable expense incurred by them in conducting the business of the district and in litigating a suit for the district.

(b) The trustees shall charge any unpaid counsel fees or court costs incurred by former district officers against the trust estate.

(c) The trustees shall present the charges against the trust estate to the commissioners court and shall post notice in the manner provided for other claims against the district.

(d) If the commissioners court approves a charge against the trust estate, the charge becomes a valid, preferred claim against the district.

(e) The trustees, acting as treasurer, may retain money in their control to pay for a valid claim which they have against the district.

(f) If the commissioners court rejects a part of an expense which the trustees think is a valid claim, the trustees may appeal the decision as other claimants.

[Acts 1971, 62nd Leg., p. 562, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.337. Claims That Were Approved Before District Was Dissolved

The trustees shall pay all unpaid bonds and claims outstanding against the district before the commissioners court issues the dissolution order except those which are protested according to the provisions of Section 57.338 of this code.

[Acts 1971, 62nd Leg., p. 563, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.338. Protesting Payment of Claims Approved Before District Was Dissolved

(a) If a person who pays taxes in the district protests the payment of a claim filed under Section 57.337 of this code, the trustees shall refuse to pay the claim.

(b) The protest is sufficient to cause the trustees to disallow the claim if the person making the protest files the protest with the trustees, along with a bond for twice the amount of the claim, signed by sufficient sureties approved by the trustees, payable to the trustees, and conditioned on the protesting taxpayer's¹ paying all costs of suit if the claimant establishes his claim in full.

(c) A person whose claim is disallowed under this section may sue the trustees for the amount he claims.

[Acts 1971, 62nd Leg., p. 563, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ So in enrolled bill.

§ 57.339. Claims Not Approved Before District Was Dissolved

(a) A person who has a claim or judgment against the district which was not approved by the commissioners before the district was dissolved may collect on the claim only by following the procedure prescribed in this section and Sections 57.340-57.342 of this code.

(b) The person must present the claim, duly verified, to the trustees within six months after the day the commissioners court approves the bond of the trustees.

(c) The trustees shall examine the claim, and if the trustees find that the claim is correct, they shall allow it. If the trustees allow the claim, the person making the claim must file it with the county clerk not less than 20 days before the beginning of the regular session of the commissioners court that follows the date the trustees allowed the claim.

(d) If the trustees find that it would be unjust for them to allow a claim, they shall endorse on the claim their refusal to allow it, and the person mak-

ing the claim may sue the trustees for the amount he claims in any court of competent jurisdiction in the county.

(e) If the trustees find that it would be unjust for them to allow part of the claim, they shall endorse on the claim the parts of it they allow and the parts they disallow. The person making the claim may either waive his claim to the part disallowed and file the claim with the commissioners court or refuse to waive his claim to the part disallowed, withdraw the claim from the trustees, and sue the trustees for the amount he claims.

[Acts 1971, 62nd Leg., p. 563, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.340. Claims, Payment Orders, and Appeals

(a) The commissioners court, in a regular session, shall pass on claims. The commissioners court shall approve each claim it finds to be correct and shall issue an order stating that approval and shall enter the order in its minutes.

(b) When the order of approval is entered in the minutes, the claim becomes a valid claim against the district.

(c) If the commissioners court approves a claim under this section, the person making the claim shall file the claim with the trustees.

(d) If the person making the claim is not satisfied with the terms of the order of approval or if the commissioners court refuses to approve the claim, the person may appeal the decision of the commissioners court.

(e) When a claim is filed under Section 57.339 of this code, the county clerk shall immediately issue notice of the filing to all persons interested in the district. The notice shall be posted in three public places in the district and at the courthouse door not less than 20 days before the next regular session of the commissioners court.

[Acts 1971, 62nd Leg., p. 563, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.341. Claims Judgments

(a) If a person making a claim sues the trustees for the amount of the claim and wins a judgment against the trustees, the person shall file the judgment with the trustees.

(b) If the suit contests a claim under Section 57.338 of this code, the contestant and his sureties shall be made parties to the suit, and the trustees shall assert all defenses urged against the claim in the protest. If the claimant wins a judgment for the whole amount of his claim, the court shall render a judgment against the contestant and his sureties for all costs incurred in the suit.

[Acts 1971, 62nd Leg., p. 564, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.342. Claims to be Paid

The trustees shall pay from money left in the district's treasury on dissolution claims filed with them under Sections 57.336, 57.337, and 57.339 of this code, in the order that the claims are filed.
[Acts 1971, 62nd Leg., p. 564, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.343. Disposition of Debts After Election

(a) If the district is dissolved, the commissioners court shall provide for the settlement of the debts of the district, including the costs and expenses of holding the election.

(b) The commissioners court may levy, assess, and collect a sufficient tax on the property in the district in the manner provided in this chapter, to pay all the valid debts and obligations of the district, except bonds issued and held by a purchaser.

(c) The district shall pay bonds that have been issued and are held by a purchaser according to the terms of the bonds by levy and collection of an annual tax as provided in this chapter unless retirement of the bonds is effected as provided in Section 57.344 of this code.

[Acts 1971, 62nd Leg., p. 564, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.344. Accelerated Retirement of Bonds

(a) If there are any district bonds outstanding at the time the commissioners court issues the dissolution order, the commissioners court shall immediately begin negotiations with the holders of the bonds to determine whether or not the retirement of the bonds can be accelerated.

(b) If the bonds can be retired at an earlier date than the date stipulated on their face, either as a result of the terms of the bonds or because of an agreement between the commissioners court and the holders of the bonds, then the commissioners court may levy a tax to pay off the bonds as quickly as possible.

(c) The commissioners court shall have the tax assessed and collected annually or at one time.
[Acts 1971, 62nd Leg., p. 564, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 57.345. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed section, see Disposition Table preceding the Tax Code.

§ 57.346. Final Trustee Report

(a) After the trustees pay all valid claims established against the district and satisfy the cost and expenses of controlling and managing the district, they shall file a report of the final settlement with the commissioners court.

(b) The trustees shall include in the report:

- (1) a full and complete account of all money received and paid during their trusteeship;
- (2) an account of the disposition of all property which came under their control as trustees; and
- (3) an account of all other matters relating to the management of the affairs of the district.

(c) On the approval of the report, the commissioners court shall direct the trustees to turn over any property or money remaining in their control to the person designated by the commissioners court to receive the money or property.

(d) When the trustees have complied with the direction of the commissioners court, they shall report their compliance to the commissioners court. After the trustees have reported their compliance, the commissioners court shall discharge the trustees and their sureties and close the trust estate.

[Acts 1971, 62nd Leg., p. 565, ch. 58, § 1, eff. Aug. 30, 1971.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 58.001. Definitions

In this chapter:

- (1) "District" means an irrigation district.

(2) "Board" means the board of directors of a district.

(3) "Director" means a member of the board of directors of a district.

(4) "Commissioners court" means the commissioners court of the county in which a district or part of a district is located.

(5) "Commission" means the Texas Water Commission.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 984, ch. 367, § 40, eff. June 10, 1981.]

[Sections 58.002 to 58.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT

§ 58.011. Creation of District

An irrigation district may be created under and subject to the authority, conditions, and restrictions of either Article III, Section 52, of the Texas Constitution, or Article XVI, Section 59, of the Texas Constitution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.012. Composition of District

(a) A district may include all or part of one or more counties, including any town, village, or municipal corporation, and may include any other political subdivision of the state or any defined district, providing the land contained therein is agricultural in character.

(b) The areas composing a district do not have to be contiguous but may consist of separate bodies of land separated by land not included in the district; however, each segregated area, before it may be included in the district, must cast a majority vote in favor of the creation of the district.

(c) No district may include territory located in more than one county except by a majority vote of the electors residing within the territory in each county sought to be included in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.013. Petition

(a) A petition requesting creation of a district shall be signed by a majority of the persons who hold title to land in the proposed district which represents a total value of more than 50 percent of the value of all the land in the proposed district as indicated by the county tax rolls. If there are more than 50 persons holding title to land in the proposed district, the petition is sufficient if signed by 50 of them.

(b) The petition may be signed and filed in two or more copies.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.014. Contents of Petition

The petition shall include:

- (1) the name of the district;
- (2) the area and boundaries of the district;
- (3) the provision of the Texas Constitution under which the district is to be organized;
- (4) the purpose or purposes of the district;
- (5) a statement of the general nature of the work to be done and the necessity and feasibility of the project, with reasonable detail and definiteness to assist the court or commission passing on the petition in understanding the purpose, utility, feasibility, and need; and
- (6) a statement of the estimated cost of the project based on the information available to the person filing the petition at the time of filing.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.015. Place of Filing; Recording

(a) The petition shall be filed in the office of the county clerk of the county in which the district is located. If land in more than one county is included in the district, copies of the petition certified by the clerk shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(b) The petition shall be recorded in a book kept for that purpose in the office of the county clerk.

(c) If more than one petition is filed and the petitions are identical except for the signature, one copy of the petition shall be recorded and all signatures on the other petitions shall be included.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.016. Board or Commission to Consider Creation of District

If the land to be included in a district is within one county, the creation of the district shall be considered and ordered by the commissioners court, but if the land to be included in a district is in two or more counties, the creation of the district shall be considered and ordered by the commission.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.017. Single-County District; Hearing

(a) If a petition is filed for the creation of a district within one county, the county judge shall issue an order setting the date of hearing on the petition by the commissioners court and shall endorse the order on the petition or on a paper attached to the petition.

(b) After the order is issued, the county clerk shall issue notice of the hearing.

(c) The petition may be considered at a regular or special session of the court.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.018. Single-County District; Notice of Hearing

(a) The notice of hearing on the petition shall include a statement of the nature and purpose of the district and the date, time, and place of hearing.

(b) The notice shall be prepared with one original and three copies. The county clerk shall retain one copy of the notice in his files and deliver the original and two copies to the county sheriff.

(c) The sheriff shall post one copy of the notice at the courthouse door 15 days before the day of the hearing and shall publish one copy in a newspaper of general circulation in the county once a week for two consecutive weeks. The first newspaper publication shall be made at least 20 days before the day of the hearing.

(d) Before the hearing, the sheriff shall make due return of service of the notice with copy and affidavit of publication attached to the original.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.019. Single-County District; Name

(a) A district located in one county may be named the _____ County Irrigation District Number _____ (insert the name of the county and proper consecutive number).

(b) A district may be known and designated by any term descriptive of the location of the district and descriptive of the principal powers to be exercised by the district; however, the word "district" shall be included in the designation and a consecutive number shall be assigned to it if other districts of the same name have been created in the county.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.020. Single-County District; Testimony at Hearing

(a) At the hearing on the petition, any person whose land is included in or would be affected by the creation of the district may appear and contest the creation of the district and may offer testimony to show that the district:

- (1) is or is not necessary;
- (2) would or would not be a public utility or benefit to land in the district; and
- (3) would or would not be feasible or practicable.

(b) The hearing may be adjourned from day to day.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.021. Single-County District; Granting or Refusing Petition

(a) The commissioners court or the commission shall grant the petition requesting the creation of a district if it appears at the hearing that:

- (1) organization of the district as requested is feasible and practicable;
- (2) the land to be included and the residents of the proposed district will be benefited by the creation of the district;
- (3) there is a public necessity or need for the district; and
- (4) the creation of the district would further the public welfare.

(b) If the commissioners court or the commission fails to make the findings required by Subsection (a) of this section, it shall refuse to grant the petition.

(c) If the commissioners court or the commission finds that any of the land sought to be included in the proposed district will not be benefited by inclusion in the district, it may exclude that land not to be benefited and shall redefine the boundaries of the proposed district to include only the land that will receive benefits from the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.022. Single-County District: Appeal from Order of Commissioners Court

(a) If the commissioners court grants or refuses to grant the petition, any person who signed the petition or any person who appears and protests the petition and offers testimony against the creation of the district may appeal from the order of the court by giving notice of appeal in open court at the time of the entry of the order, which shall be entered on the court's docket, and by filing with the clerk of the commissioners court within five days a good and sufficient appeal bond in the amount of \$2,500.

(b) The appeal bond shall be approved by the clerk of the commissioners court payable to the county judge conditioned for the prosecution of the appeal with effect and the payment of all costs incurred with the appeal in the event the final decree of the court is against the appellant.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.023. Single-County District: Record on Appeal; Notice of Appeal

(a) On completion of an appeal as provided in Section 58.022 of this code, the clerk of the commissioners court shall, within 10 days, prepare a certified transcript of all orders entered by the commissioners court and transmit them with all original

documents, processes, and returns on processes to the clerk of the district court to which the appeal is taken.

(b) All persons shall be charged with notice of the appeal without notice or service of notice. No person who fails to appear by petition, in person, or by attorney in the commissioners court may be permitted to intervene in the district court trial.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.024. Single-County District: Hearing in District Court; Procedure

(a) The district court, either in term time or in vacation time, shall schedule the appeal for hearing with all reasonable dispatch.

(b) In the proceeding in the district court, formal pleadings shall not be required but, with the court's permission, may be filed.

(c) The trial and decision shall be by the court without the intervention of a jury, and the hearing shall be conducted as though the jurisdiction of the district court were original jurisdiction.

(d) The following matters may be contested in the district court:

- (1) all matters that were or might have been presented in the commissioners court;
- (2) the validity of the Act under which the district is proposed to be created; and
- (3) the regularity of all previous proceedings.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(47), eff. Aug. 31, 1981.]

§ 58.025. Single-County District: Judgment of District Court; Appeal

(a) In the appeal, the district court shall apply to the determination its full powers to the end that substantial justice may be done.

(b) An appeal from the judgment of the district court may be taken as in other civil causes, but appeals filed under Section 58.022 of this code shall be given precedence on the docket of any higher court over all causes that are not of similar public concern.

(c) The final judgment of the district court, or other court to which an appeal may be prosecuted, shall be certified and transmitted to the clerk of the commissioners court with all original documents and processes which were transmitted from the commissioners court to the district court on appeal.

(d) The commissioners court shall enter its order on the petition to conform to the decree entered by the court of final jurisdiction and shall enter other and further orders as may be required by law to execute the intent of the certified decree.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.026. Single-County District: Appointment of Directors; Bond

(a) If the commissioners court grants a petition for creation of a district, it shall appoint five directors who shall serve until their successors are elected or appointed in accordance with law.

(b) Each director shall, within 15 days after appointment, file his official bond in the office of the county clerk, and the county clerk shall present the bond to the county judge for approval. The county judge shall pass on the bond and approve it, if it is proper and sufficient, or disapprove it and shall endorse his action on the bond and return it to the county clerk.

(c) If approved, the bond of a director shall be recorded in a record kept for that purpose in the office of the county clerk, but if a bond is not approved, a new bond may be furnished within 10 days after disapproval.

(d) If any director appointed under this section fails to qualify, the commissioners court shall appoint another person to replace him.

(e) Each director appointed under this section shall take the oath of office as provided by Section 58.077 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.027. Multicounty District: Hearing by Commission

(a) The commission shall have exclusive jurisdiction and power to hear and determine all petitions for creation of a district that will include land or property located in two or more counties.

(b) The orders of the commission concerning the organization of a district shall be final, unless an appeal is taken from the orders as provided in this subchapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.028. Multicounty District: Notice of Hearing

(a) When a petition is filed, the commission shall give notice of a hearing in the manner provided in Section 58.018 of this code.

(b) The notice shall be posted at the courthouse door, on the bulletin board used for posting legal notices, in each county in which the district may be located.

(c) The notice shall be published in one or more newspapers with general circulation in the area of the proposed district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.029. Multicounty District: Deposit Accompanying Petition

(a) A petition to create a multicounty district shall be accompanied by a deposit of \$600 for the use of the state, and no part of the deposit may be returned except as provided in Subsection (c) of this section.

(b) The deposit shall be placed with the state treasurer to be held in trust outside the state treasury until the commission either grants or refuses the petition. At the time of action on the petition, the commission shall direct the state treasurer to transfer the deposit into the general revenue fund.

(c) If at any time before the hearing on the petition, the petitioners withdraw the petition, and only in that event, the commission shall direct the refund of the deposit to petitioners or their attorney of record. The receipt of the attorney of record shall be sufficient receipt for the return of the money.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1983, 68th Leg., p. 368, ch. 81, § 9(f), eff. Sept. 1, 1983.]

Section 9(g) of the 1983 amendatory act provides:

"This section applies to fees payable on or after September 1, 1983."

§ 58.030. Multicounty District: Hearing of Commission; Procedure

(a) The commission shall hear, consider, and determine on the issues a petition filed under Section 58.028 of this code.

(b) At the hearing of the petition, the commission shall be governed by the provisions of Section 58.021 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.031. Multicounty District: Appeal from Commission Decision

(a) When the commission grants or refuses a petition, any person who comes within the requirements specified in Sections 58.020-58.025 of this code may prosecute an appeal from the judgment of the commission under Sections 58.022-58.025 of this code.

(b) The appeal may be taken to any district court in any county in which part of the proposed district is located or to a district court in Travis County.

(c) The time within which an appeal bond may be approved and filed is 15 days after the entry of the final order by the commission.

(d) On the perfection of the appeal, the appellant shall pay the actual cost of the transcript of the record, which will be assessed as part of the costs incurred on the appeal.

(e) Whenever practicable, the original documents and processes with the returns attached shall be sent to the district court.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.032. Multicounty District: Appointment of Directors by Commission; Bond

(a) If the commission grants the petition for creation of the district, it shall appoint five directors, who shall serve until their successors are elected or appointed.

(b) A certified copy of the order of the commission granting a petition and naming the directors shall be filed in the office of the county clerk of each county in which a portion of the district is located.

(c) Each director named in the order shall, within 15 days after appointment, file his official bond in the office of the county clerk of the county of his residence. The county clerk shall present the bond to the county judge for approval.

(d) The county judge shall act on each bond in the manner provided in Section 58.026 of this code.

(e) If any director appointed under this section fails to qualify, the commissioners court of the county in which he lives shall appoint some qualified person to replace him.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.033. Order of Confirmation Election; Holding of Election; Preliminary Bond Proposition

(a) Within 30 days after the date of the first meeting of the board and before the district may incur any indebtedness other than for its operation and the holding of an election, the board shall issue and publish an order calling an election in the district to confirm the creation of the district.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Confirmation of the district."

(c) The election shall be held in the manner provided for other elections.

(d) At the election, the proposition for the issuance of preliminary bonds may also be submitted to the district electors. Separate ballot boxes shall be provided for the different classifications of voters.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.034. Result of Election; Entry of Order

(a) If the majority of those voting at an election held under Section 58.033 of this code vote in favor of the confirmation of the district, the district is confirmed and ratified, but if the majority of those voting at the election vote against the confirmation

of the district, the district shall have no further authority, except that any debts incurred shall be paid and the organization of the district shall be maintained until all the debts are paid.

(b) If the majority of those voting at the election favor the confirmation of the district and the result is declared, the board shall enter in their minutes an order substantially as follows: "An election having been held in _____ district on the ___ day of ___, for the purpose of voting on the confirmation of the creation of the district and the results of the election resulted in a vote of ___ votes for confirmation and ___ votes against confirmation of the district. The district is therefore declared to have been legally organized with the following boundaries: (Describe boundaries)."

(c) The order shall be signed by a majority of the board and acknowledged by the president of the board. The order shall be filed for record in the office of the county clerk of any county in which the district is situated and recorded in the deed records.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.035. Inclusion of City, Town, or Municipal Corporation in District

(a) No city, town, or municipal corporation may be included within any district created under this chapter unless the proposition for the creation of the district has been adopted by a majority of the electors in the city, town, or municipal corporation.

(b) Any municipal corporation included within a district shall be a separate voting district, and the ballots cast within the municipal corporation shall be counted and canvassed separately from the remainder of the district.

(c) No district that includes a city, town, or municipal corporation may include land outside of the municipal corporation unless the election to confirm and ratify the creation of the district favors the creation of the district independent of the vote within the municipal corporation.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.036. Confirmation Election in District Including Land in More Than One County

No district, the major portion of which is located in one county, may be organized to include land in another county unless the election held in the other county to confirm and ratify the creation of the district is adopted by those voting in the other county.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.037. Exclusion of Parts of District; Dissolution

(a) If any portion of a district governed by Sections 58.035 and 58.036 of this code votes against the creation of the district and the remainder of the district votes for the creation, the district is confirmed and ratified in those portions of the district voting for the creation, and the district is composed only of those portions.

(b) The excluded portions of the district shall be excluded from all debts and obligations incurred after the election; however, all land and property included in the original district shall be subject to the payment of taxes for the payment of all debts and obligations, including organizational expenses, incurred while it was a part of the district.

(c) If a district is created and portions of the proposed district are excluded by the vote in those portions, 10 percent of the voters in the district may file with the Board a petition asking for a new election on the issue. A new election shall be ordered and held for the remaining portion of the district or the district organization may be dissolved by order of the board and a new district formed.

(d) A petition requesting a new election shall be filed within 30 days after the day on which the result of the election is canvassed and declared by the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.038. Conversion of Certain Districts Into Districts Operating under This Chapter

(a) Any water improvement district or water control and improvement district which furnishes water for irrigation and does not furnish treated water or sewer services may be converted into a district operating under this chapter.

(b) The governing body of a district which desires to convert into a district operating under this chapter shall adopt and enter in the minutes of the governing body a resolution declaring that, in its judgment, conversion into an irrigation district operating under this chapter and under Article XVI, Section 59, of the Texas Constitution, would serve the best interest of the district and would be a benefit to the land and property included in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.039. Conversion of District; Notice

(a) Notice of the adoption of a resolution under Section 58.038 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not

less than 14 full days before the time set for a hearing.

(c) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the resolution in full; and

(3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.040. Conversion of District; Findings

(a) If, on a hearing, the governing body of the district finds that conversion of the district into one operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding and the district shall become a district operating under this chapter.

(b) If the governing body finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The findings of the governing body of a district entered under this section are final and not subject to appeal or review.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.041. Effect of Conversion

A district that converts into a district operating under this chapter shall:

- (1) be constituted an irrigation district operating under and governed by this chapter;
- (2) be a conservation and reclamation district under the provisions of Article XVI, Section 59, of the Texas Constitution; and
- (3) have and may exercise all the powers, authority, functions, and privileges provided in this chapter in the same manner and to the same extent as if the district had been created under this chapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.042. Reservation of Certain Powers for Converted Districts

(a) Any water improvement district or water control and improvement district, after conversion under Section 58.038 of this code, may continue to exercise all necessary specific powers under any specific conditions provided by the chapter of this code under which the district was operating before conversion, except that no district, after conversion, may engage in the treatment or delivery of treated water for domestic consumption or the construction, maintenance, or operation of sewage facilities.

(b) At the time of making the order of conversion, the governing body shall specify in the order the specific provisions of the chapter of the code under which the district had been operating which are to be preserved and made applicable to the operations of the district after conversion into a district operating under this chapter.

(c) A reservation of a former power under Subsection (a) of this section may be made only if this chapter does not make specific provision concerning a matter necessary to the effectual operation of the converted district.

(d) In all cases in which this chapter does make specific provision, this chapter shall, after conversion, control the operations and procedure of the converted district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.043 to 58.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 58.071. Board of Directors

The governing body of a district is the board of directors, which shall consist of five directors.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.072. Qualifications

To be qualified for election as a director, a person must be a resident of the state, be the owner of record of fee simple title to land in the district, and be at least 18 years of age.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.073. Election of Directors; Term of Office

(a) An election shall be held in the district on the first available election date provided by Article 2.01b of Vernon's Texas Election Code in the first even-numbered year following the confirmation election to elect five directors.

(b) The three directors receiving the highest number of votes shall serve as directors for four years, and the other two directors shall serve for two years.

(c) Two years after election of the two directors for two-year terms, two directors shall be elected to serve for four years.

(d) After the second election of directors, an election shall be held each even-numbered year with three directors elected at one election and two at the next election in continuing sequence.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981; Acts 1983, 68th Leg., p. 5216, ch. 951, § 12, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 58.0731. Election of Directors from Precincts

A district that elected one director from each of five precincts before it converted to a district operating under this chapter shall continue to elect its directors in the same manner from precincts.

[Acts 1979, 66th Leg., p. 70, ch. 44, § 1, eff. April 11, 1979.]

§ 58.074. Election to Replace Directors Temporarily Appointed by Commission

(a) A district organized by order of the commission shall elect five directors at the election which is held to confirm the creation of the district. The names of the five appointed directors shall be placed on the ballot, with a blank space left to write in the names of other persons.

(b) If the appointed directors are elected, they shall be confirmed without the necessity of furnishing new bonds and shall continue in office.

(c) If any of the appointed directors are not elected, the person or persons elected in their places must furnish bond, which shall be approved in the manner provided for directors first appointed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.075. Application to Get on Ballot

A candidate for the office of director or other elective office may file an application with the secretary of the board to have his name printed on the election ballot. The application must be signed by the applicant or by at least 10 qualified electors of the district and must be filed at least 20 days before the date of the election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.076. Organization of Board

After a district is created and the directors have qualified, the board shall meet, elect a president, vice-president, and secretary, and begin the discharge of its duties.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.077. Director's Oath

Each director shall take the oath of office prescribed by law for county commissioners.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.078. Director's Bond

(a) Each director shall execute a good and sufficient bond for \$5,000, payable to the district, conditioned on the faithful performance of his duties.

(b) After the creation of the district and the qualification of the first board of directors, all bonds required to be given by a director or other officer of the district are subject to the approval of the board.

(c) The county clerk of the county in which the director lives shall record each bond in the bond records of the county. The bond also shall be recorded in a bond record in the district office and filed for safekeeping in the depository of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.079. Compensation of Directors

(a) A director is entitled to receive compensation of not more than \$25 a day for each day he actually spends performing his duties as a director, but the fees shall not be more than \$100 for any one month.

(b) Before a director may receive compensation for his services, he shall file with the secretary a verified statement showing the number of days actually spent in the service of the district. The statement shall be filed on the last day of the month or as soon after that time as possible.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.080. Officers; Quorum

(a) The president is the chief executive officer of the district and presides at all meetings of the board. The vice-president shall act as president in case of the absence or disability of the president. The secretary is secretary of the board and is responsible for seeing that all records and books of the district are properly kept. In the case of the absence or inability of the secretary to act, the board shall select a secretary pro tem.

(b) Three directors constitute a quorum for any meeting, and a concurrence of three is sufficient for transacting any business of the district except letting construction contracts and drawing warrants on the depository for payment of the contracts, which require the concurrence and signatures of four directors. Warrants to pay current expenses, salaries, and accounts may be drawn by an officer or employee designated by standing order entered in the minutes when these accounts have been contracted and ordered paid by the directors.

[Acts 1977, 65th Leg., p. 1527, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.081. Vacancies

(a) All vacancies on the board and in other offices shall be filled for the unexpired term by appointment of the board.

(b) If the number of directors is reduced to fewer than three, the vacancies shall be filled by special election order by the remaining members of the board. If the director or directors fail to order an election within 15 days after the vacancies occur,

any voter or creditor of the district may petition the district judge of any judicial district in which land of the district is located, and the judge may order the election, fixing the date, ordering the publication of notice by any county sheriff, and naming the officers to hold the election.

(c) The returns of the election ordered by a district judge shall be made and filed in the office of the clerk of the court and he shall declare the result of the election.

(d) The officers elected shall furnish bond and qualify in the manner provided in this chapter for directors first appointed for a district on its creation.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.082. General Manager

The board may employ a general manager and give him full authority in the management and operation of the affairs of the district subject only to the orders of the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.083. Director as Manager

A director may be employed as general manager with compensation fixed by the other four directors. When so employed, he shall continue to perform the duties of a director.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.084. District Tax Assessor and Collector

The board may appoint one person to the office of tax assessor and collector, or it may order an election to fill that office.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.085. Tax Assessor and Collector's Bond

(a) The tax assessor and collector shall execute a good and sufficient bond for \$5,000, signed by at least two sufficient sureties or a surety company and approved by the board. The bond shall be conditioned on the faithful performance of his duties and on his paying to the depository all money or other things of value that he received in his capacity as tax assessor and collector.

(b) The board may require the tax assessor and collector to give additional bonds or security of a larger bond at any time.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.086. Deputy Tax Assessor and Collector

(a) The board may appoint one or more deputies to assist the tax assessor and collector for a period not to exceed one year.

(b) Each deputy may be required to furnish a bond with similar conditions to the bond required by the tax assessor and collector.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.087. Compensation of Tax Assessor and Collector and Deputies

The board shall fix the compensation of the tax assessor and collector and each deputy.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.088. Additional Duties

The board may require the tax assessor and collector to perform duties other than those specified in this chapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.089. Bonds of Officers of a District Acting as Fiscal Agent or Collecting Money for the United States

(a) If a district is appointed fiscal agent for the United States or if a district is authorized to make collections of money for the United States in connection with a federal reclamation project, each director and officer of the district including the tax assessor and collector shall execute an additional bond in the amount required by the Secretary of the Interior, conditioned on the faithful discharge of his respective office and on the faithful discharge by the district of its duties as fiscal or other agent of the United States under its appointment or authorization.

(b) The additional bonds shall be approved, recorded, and filed as provided in this chapter for other official bonds.

(c) Suit may be brought on the bonds by the United States or any person injured by the failure of the officers or directors of the district to fully, promptly, and completely perform their respective duties.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.090. Employees of the District

The board shall employ all persons necessary for the proper handling of the business and operation of the district, its plant and improvements. It may employ attorneys, bookkeepers, engineers, laborers, and a civil engineer, who shall be an officer of the district, to be known as "District Engineer."

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.091. Employees' Compensation and Terms of Employment

The board shall determine the term of office and compensation to be paid to the general manager and

all employees. All employees may be removed by the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.092. Officer's and Employee's Bond

(a) The board shall require an officer or employee who collects, pays, or handles any funds of the district to furnish good and sufficient bond, payable to the district, for a sufficient amount to safeguard the district. The bond shall be conditioned on the faithful performance of his duties and on accounting for all funds and property of the district coming into his hands.

(b) The bond may be signed by individual sureties or by surety companies authorized to do business in the state.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.093. District Office

The board shall maintain a regular office for conducting the business of the district. The office shall be located inside the district, or if the district does not include towns which are within or adjoining the territory included in the district, it may be located in a nearby town that is best suited for the transaction of business.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.0931. Joint Office

Two contiguous districts that jointly own and operate their diversion facilities and main canal and that jointly own land suitable for a joint office may, by contract approved by the board of each district, establish a joint office on that land.

[Acts 1983, 68th Leg., p. 5199, ch. 946, § 1, eff. Aug. 29, 1983.]

§ 58.094. Meetings

The board shall hold regular meetings at the district office on the first Monday in February, May, August, and November of each year at 10 a. m. and may hold meetings at other times when required for the business of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.095. Minutes and Records of the District

The board shall keep a true and complete account of all its meetings and proceedings, and shall preserve its minutes, contracts, records, notices, accounts, receipts, and records of all kinds in a fire-proof vault or safe. All minutes, contracts, records, notices, accounts, receipts, and other records are the property of the district and subject to public inspection.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.096. Recording Proceedings

All proceedings of the board and all decrees and orders of any court affecting the creation, boundaries, or validity of the district must be recorded in a special record book kept for that purpose in the office of the county clerk of each county in which the district is located. This recording is in addition to other recording provisions in this chapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.097. Contracts

District contracts shall be executed by the board in the name of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.098. Suits

A district may sue and be sued in the courts of this state in the name of the district by and through its board. All courts shall take judicial notice of the creation of the district and of its boundaries.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.099. Payment of Judgment Against District

Any court in the state rendering judgment for debt against a district may order the board to levy, assess, and collect taxes or assessments to pay the judgment.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.100. Actions Contesting District, Bonds, or Contracts; Suit by Attorney General

(a) Except as provided in Subsection (b) of this section, and as provided in Sections 58.021-58.025 of this code, no suit may be instituted in any court of this state contesting:

(1) the validity of the creation and boundaries of a district created under this chapter;

(2) any bonds or other obligations authorized under this chapter; or

(3) the validity or the authorization of a contract with the United States by the district.

(b) The matters listed in Subsection (a) of this section may be judicially inquired into at any time and determined in any suit brought by the State of Texas, through the attorney general, on his own motion or on the motion of any person affected by the existence or plans of the district. The action shall be brought on good cause shown, except where otherwise provided by other provisions of this chapter or by the Texas Constitution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.101 to 58.120 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**§ 58.121. Purposes of District**

(a) Irrigation districts operating under this chapter are limited purpose districts established primarily to deliver untreated water for irrigation and to provide for the drainage of lands and such other functions as are incidental to the accomplishment of such limited purposes. An irrigation district shall not engage in the treatment or delivery of treated water for domestic consumption or the construction, maintenance, or operation of sewage facilities or provide any other similar municipal services. An irrigation district may cooperate with the United States under the federal reclamation laws for the purpose of:

(1) construction of irrigation and drainage facilities necessary to maintain the irrigability of the land;

(2) purchase, extension, operation, or maintenance of constructed facilities; or

(3) assumption, as principal or guarantor of indebtedness to the United States on account of district lands.

(b) An irrigation district operating under this chapter may contract with municipalities, political subdivisions, water supply corporations, or water users for the delivery of untreated water.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.122. Powers of District

The district has the functions, powers, authority, rights, and duties which will permit the accomplishment of the purposes for which it was created, including the investigation and, in case a plan for improvements is adopted, the construction, maintenance, and operation of necessary improvements, plants, works, and facilities, and the acquisition of water rights and all other properties, land, tenements, materials, borrow and waste ground, easements, rights-of-way, and everything considered necessary, incident, or helpful to accomplish by any practicable mechanical means any one or more of the objects authorized for the district, subject only to the restrictions imposed by the Constitutions of Texas or the United States. A district also may acquire property deemed necessary for the extension or enlargement of the plant, works, improvements, or service of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.123. Acquisition of Property

(a) A district may acquire the land material, borrow and waste ground, rights-of-way, easements, or other property by gift, grant, purchase, or condemnation.

(b) The district may acquire either the fee simple title to or an easement on all land, public or private, located inside or outside the district.

(c) The district may acquire the title to or an easement on property other than land held in fee. [Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.124. Planning

The board may make investigations and plans necessary to the operation of the district and the construction of improvements. It may employ engineers, attorneys, bond experts, and other agents and employees required to perform this duty.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.125. Construction of Improvements

A district may construct all works and improvements necessary:

- (1) for the irrigation of land in the district;
- (2) for the drainage of land in the district, including drainage ditches or other facilities for drainage; and
- (3) for the construction of levees to protect the land in the district from overflow.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.126. Purchase of Machinery and Supplies

The board may purchase machinery, materials, and supplies needed in the construction, operation, maintenance, and repair of district improvements.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.127. Adopting Rules

A district may adopt and make known reasonable rules to:

- (1) prevent waste or the unauthorized use of water; and
- (2) regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges on any body or stream of water, or any body of land, or any easement owned or controlled by the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.128. Effect of Rules

After the required publication, rules adopted by the district under Section 58.127 of this code shall be recognized by the courts as if they were penal ordinances of a city.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.129. Publication of Rules

(a) The board shall publish once a week for two consecutive weeks a substantive statement of the

rules and the penalty for their violation in one or more newspapers with general circulation in the area in which the property of the district is located.

(b) The substantive statement shall be as condensed as is possible to intelligently explain the purpose to be accomplished or the act forbidden by the rule.

(c) The notice must advise that breach of the rules will subject the violator to a penalty and that the full text of the rules is on file with the principal office of the district where it may be read by any interested person.

(d) Any number of rules may be included in one notice.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.130. Effective Date of Rules

The penalty for violation of a rule is not effective and enforceable until five days after the publication of the notice. Five days after the publication, the published rules shall be in effect and ignorance of it is not a defense for a prosecution for the enforcement of the penalty.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.131. Penalties for Violation of Rule

(a) The board may set reasonable penalties for the breach of any rule of the district, which shall not exceed fines of more than \$200 or imprisonment for more than 30 days, or both.

(b) These penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.132. Enforcement by Peace Officers

A district may employ its own peace officers with power to:

- (1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the laws of the state when the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; or
- (2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.133. Constructing Bridges and Culverts across and over County and Public Roads

The district shall build necessary bridges and culverts across and over district canals, laterals, and

ditches which cross county or public roads. Funds of the district shall be used to construct the bridges and culverts.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.134. Constructing Culverts and Bridges across and under Railroad Tracks, Roadways, and Interurban or Street Railways

(a) The district, at its own expense, may build necessary bridges and culverts across or under any railroad tracks or roadways of any railroad or any interurban or street railway to enable the district to construct and maintain any canal, lateral, ditch, or other improvement of the district.

(b) Before the district builds a bridge or culvert, the board shall deliver written notice to the local agent, superintendent, roadmaster, or owner. The railroad company or its owner shall have 60 days in which to build the bridge at its own expense and according to its own plans.

(c) The canal, culvert, ditch, or structure shall be constructed of sufficient size and proper plan to serve the purpose for which it is intended.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.135. Right to Enter Land

The board, the district engineer, and the employees of the district may enter any land inside or outside the district to make surveys for reservoirs, canals, rights-of-way, dams, or other contemplated improvements and to attend to any business of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.136. Power to Contract

The district may enter into a contract for the use by another of its water, facilities, or service, either inside or outside the district, except that a contract may not be made which impairs the ability of the district to serve lawful demands for service within the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.137. Investigation and Report of Engineer

(a) The district engineer shall make a thorough study and investigation of all plans of the district and make and file in the district office a report on all plans for construction of plants and improvements.

(b) The board shall provide and keep a book in the district office, to be known as the "Engineer's Record," in which all reports and recommendations made by the district engineer shall be recorded. The "Engineer's Record" shall be open to public inspection.

(c) A contract for more than \$20,000 may not be made by the district unless the district has a district engineer who has made a proper study and report on it.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.138. Contracts for Materials, Machinery, Construction, Etc., for More Than \$10,000

(a) With the exception of a district operating under a contract with the United States, the board shall not let a contract for more than \$10,000 for the purchase of materials, machinery, and all things to constitute the plant, works, facilities, and improvements of the district or for construction except as specified in Subsections (b)-(d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers with general circulation in the state, and one or more newspapers published in each county in which all or part of the district is located to give general circulation in the district. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient. The notice shall be published once a week for three consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 21 days before the opening of sealed bids.

(c) A contract may cover all the improvements to be provided by the district, or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts.

(d) A contract may provide for the payment of a total sum which is the completed cost of the improvement or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers.

(e) A contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plant, improvements, facilities, and works.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.139. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a cashier's check on a responsible bank in the state for at least two percent of the total amount of the bid, or a bid bond of

at least two percent of the total amount of the bid issued by a surety legally authorized to do business in the state.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he forfeits the amount of the cashier's check which accompanied his bid, or if a bid bond has been given, the district shall have the legal remedies available under the bond.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.140. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who requests it in writing, a copy of the engineer's report which shows the work to be done and all details of it. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.141. Provisions of Contracts for Construction Work

(a) Any contract made by the board for construction work shall conform to the provisions of this chapter, and the provisions of this chapter will be considered to be a part of the contract and shall prevail when the provisions of this chapter and the contract are in conflict.

(b) The contract shall contain, or have attached to it, the specifications, plans, and details for work included in the contract, and all work shall be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.142. Executing and Recording Construction Contract

(a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) A copy of the contract shall be filed with the county clerk, and the county clerk shall record the contract in a book kept for that purpose.

(c) The contract shall be available for public inspection.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.143. Contractor's Bond

(a) The contractor shall execute a bond in an amount determined by the board, not to exceed the

contract price, payable to the district, conditioned on the faithful performance of the obligations, agreements, and covenants of the contract.

(b) The bond shall provide that if the contractor defaults on the contract, he will pay to the district all damages sustained as a result of the default or complete the contract according to its terms.

(c) All sureties signing the bond are bound by it to the same extent that the principal is bound, regardless of the technical defenses.

(d) The bond shall be deposited in the district depository, and a true record of it shall be entered in a record book in the district office.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.144. Reports on Construction Work

During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report showing whether or not the contractor has fully complied with the contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.145. Payments under Construction Contract

(a) The district shall pay the contract price of a contract as provided in this section.

(b) The district will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer. If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the district engineer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the contractor at locations other than the site may also be taken into consideration:

(1) if such consideration is specifically authorized by the contract; and

(2) if the contractor furnishes satisfactory evidence that he has acquired title to the material and that it will be utilized on the work covered by this contract.

(c) In making progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the directors, at any time after 50 percent of the work has been completed, find that satisfactory progress is being made, they may authorize any of the remaining progress payments to be made in full. Also, whenever the work is

substantially complete, the directors, if they consider the amount retained to be in excess of the amount adequate for the protection of the district, at their discretion, may release to the contractor all or a portion of the excess amount.

(d) On completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made without retention of a percentage.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.146. Partial Payment of Construction Work

The board may pay for a construction contract in partial payments as the work progresses, but partial payments shall not be more than 85 percent of the amount due at the time of the partial payment as shown by the report of the district engineer.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.147. Joint Ownership Contracts

(a) Two or more districts may enter into a contract to jointly own and construct irrigation works and reservoirs, levees, drainage systems, and all other plants, works, and improvements which they are authorized to own or construct. The contract may include provisions for joint construction and operation, but the terms and conditions may not conflict with the laws providing for the creation and operation of the districts.

(b) The parties joining in the contract shall have the terms of their agreement incorporated into a written or printed contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.148. Election to Approve a Joint Ownership and Construction Contract

(a) Before the districts may be bound by a joint ownership and construction contract made under Section 58.147 of this code, an election to approve the contract must be held in each of the districts.

(b) The election to approve the contract shall be held on the same day in each district.

(c) Notice of the election shall be the same as notice of the election for the creation of a district under this chapter.

(d) At least 15 days before the day of the election, a copy of the contract must be filed in the office of each of the districts and be made available for public inspection, and each district must furnish a copy of the contract to any elector who appears at the office and requests a copy.

(e) If a majority of the electors in each district approve the contract at the election, the contract is adopted and is binding.

(f) The contract may be amended in the manner provided for adopting the original contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.149. General Manager for Joint Projects

The boards of the districts which are parties to a joint ownership and construction contract may employ a general manager for the joint project. The duties of the general manager may be included in the provisions of the joint contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.150. Transactions in District Names under Joint Ownership and Construction Contract

All bids, bonds, contracts, and other transactions made under a joint ownership and construction contract may be made in the names of the districts which are parties to the contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.151. Joint Projects under Joint Ownership and Construction Contracts

(a) When districts operating under a joint ownership and construction contract plan to construct any improvements, the districts may call jointly for bids on these improvements.

(b) The bids may be opened and considered at the office of either of the districts which are parties to the contract.

(c) The boards shall approve the award of the contract and the contractor's bond. The boards may meet for this purpose either at an office outside the districts or at an office established for transaction of all business of the joint project.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.152. Additional Powers of Districts under Joint Ownership and Construction Contracts

Districts which are acting under a joint ownership and construction contract may exercise jointly all powers which may be exercised by a single district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.153. Contract with the United States

(a) The board may enter into a contract or other obligation with the United States for the investigation, construction, extension, operation, and maintenance of any federal reclamation project of benefit to the district and authorized under the National Reclamation Act of 1902, as amended.¹

(b) The board may contract to secure a district water supply from the federal reclamation project and to pay to the United States the agreed cost of it

in the form of construction charges, operation and maintenance charges, and water rental charges, as shown by the contract and in accordance with the terms and conditions of the national reclamation law.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

143 U.S.C.A. § 372 et seq.

§ 58.154. Construction Charges under a Contract with the United States

The construction charges under a contract with the United States may include the cost of drainage and flood-control works necessary to control floods or to maintain the irrigability of district land.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.155. Election to Approve a Contract with the United States

(a) The electors of the district shall vote to approve every contract involving the payment of construction charges to the United States. The provisions of this chapter relating to the election to approve the validation of district bonds shall be followed, including the prosecution of an action in court to determine the validity of the contract.

(b) The notice of election shall state the maximum amount, exclusive of operation and maintenance charges, water rental charges, interest, and penalties, payable by the district to the United States under the contract.

(c) The ballot shall be printed to provide for voting for or against the proposition: "The contract with the United States and levy of taxes to make payments under the contract". This is the only proposition that may appear on the ballot.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.156. Conveying Property to the United States

A district may convey any property to the United States necessary for the construction, operation, or maintenance of federal reclamation works used or to be used for the benefit of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.157. Consent of United States to Alter District's Boundaries

Until all money has been paid by the district which is due to the United States under a contract relating to a federal reclamation project, the United States must consent to any change in the boundaries of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.158. Taxes Levied by District under Contract with the United States

(a) A district that enters into a contract with the United States shall levy annually sufficient taxes to provide payment of all installments required by the contract.

(b) The board may pay construction charges when provided by contract on the basis of the average gross annual acre income of the land of the district or designated divisions or subdivisions of the district. The Secretary of the Interior shall determine the annual gross acre income.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.159. Assessments for Contracts with the United States

The board shall levy annually sufficient assessments to collect the money required to pay all of the district's obligations in full when due regardless of any delinquency in payment of assessments by any tract of land. If collections in any year are insufficient to pay the obligations of the district, the levy shall be increased sufficiently the following year to cover the deficit.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.160. Duration of Annual Levies for Contracts with the United States

The board shall continue annual levies for payment of construction charges each year against each tract of land in the district even though construction charges apportioned against other tracts of land in the district may be paid sooner or later.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.161. Superiority of Lien to Secure Contract with the United States

The lien against district land created by a contract with the United States shall be superior to the lien created by any district bonds approved subsequent to the date of the contract with the United States.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.162. District's Authority to Solicit Cooperation, Donations, and Contributions from Other Agencies

A district organized under the provisions of this chapter may solicit cooperation, donations and contributions from:

- (1) the United States, the state or nation;
- (2) any county, municipality, water improvement district, water control and improvement district, drainage district, or any other political subdivision of the state; or

(3) any person, copartnership, corporation, or association.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.163. Expense of Procuring Cooperation and Contributions from Other Agencies

A district may incur reasonable expense to procure cooperation under Section 58.162 of this code in adding to the area of the district or with contributions to the cost of improvements made by the district. The contributions may be either a percentage of cost or a definite annual sum.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.164. Authority of Contributor

(a) Any water improvement district, water control and improvement district, levee improvement district, irrigation district, county, city, town, or other political subdivision of the state may contract to contribute to the cost of the construction of drainage and irrigation water distribution system improvements. The improvements to be constructed may be outside the contributing district, municipality, or other political subdivision of the state, and may be located outside the state or the United States.

(b) The works may be constructed by any agency.

(c) The contribution shall be proportionate to the benefit which the contributor will derive from the proposed improvements.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.165. Issuance of Bonds by Contributor

(a) The contract may provide for the issuance of bonds by the contributor and for direct payment from the proceeds of the bonds to contractors on the estimates of the engineer for the contributor.

(b) Before issuing bonds, a contributing political subdivision shall submit the contract for contribution to its electors for approval and for authority to issue the bonds, fix a lien to secure the bonds, and levy, assess, and collect taxes to retire the bonds. The procedure by a contributing political subdivision of the state shall conform to the applicable law under which the political subdivision was organized and authorized to create bonded indebtedness.

(c) The disposition of the proceeds of the bond shall conform to the approved contract of contribution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.166. Annual Tax by Contributor

(a) The contract for contribution may provide that instead of issuing bonds the contributor may levy, assess, and collect an annual tax in a specific sum.

The levy or assessment is a lien on the property subject to the contributor's taxing power.

(b) The contributor shall collect the tax at its own expense and pay it annually to the district to which the contribution is to be made. The district shall hold the annual payment as a trust fund and annually apply it to the bonds issued by it to provide funds for the construction of the improvements to which the contribution is made.

(c) The contributor shall submit the contract of contribution to its electors for approval and for authority to levy and assess a sufficient tax to meet the annual payments fixed in the contract. The election for the approval of the contract and the authorized taxes for the fulfillment of the contract shall conform to appropriate law under which the contributing political subdivision was organized and authorized to create bonded indebtedness.

(d) Payment of the annual sums of contribution shall conform to the contract of contribution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.167. Contributions from Unappropriated or Available Funds of Contributor

(a) If the proposed contributor has an unappropriated fund or a fund which is not required for actual use even though otherwise appropriated, the fund may be withdrawn from the project which does not need it and may be applied to pay contributions to the cost of the improvements considered to be a benefit to the contributor but to be constructed by another agency or jointly by the contributor and another agency.

(b) The board of the contributing political subdivision may contract for contributions and contribute from an unappropriated or available fund without submitting the contract and contributions to a vote of the electors of the contributor. However, the contributions shall not be made if they impair the ability of the contributor to meet any outstanding obligation or to adequately and economically discharge the contributor's duty to its electorate or constituency.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.168. Liability on Contracts of Acquired Irrigation System

If a district acquires an established irrigation system which has contracted to supply water to others and the holders of the contracts or the lands entitled to service of water are not within the district, the contracts and duties shall be performed by the district in the same manner and to the same extent that any other purchaser of the system would be bound.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.169. Authority to Lease Irrigation System Serving the District

(a) The board, by resolution, may lease all or part of any irrigation system serving all or part of the district, including distribution laterals, trunk or transmission canals, pumping plants, intakes, and all usual or necessary appurtenances. The board's resolution will specify the term of the lease, which may not be more than 40 years.

(b) The board may lease property located partly outside the boundaries of the district and may sell surplus untreated water to other districts and to other consumers.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.170. Covenants and Agreements Included in Lease

(a) The lease shall expressly state that the sums payable under the terms of the lease and the lease itself shall not constitute an indebtedness or pledge of the general credit of the district within the meaning of any constitutional or statutory limitation of indebtedness. The lease shall contain a statement that payments due under it are not payable from any funds raised or to be raised by taxation.

(b) The lease may contain covenants and agreements which are not inconsistent with the provisions of this code which authorize the lease for:

- (1) the management and operation of the leased properties;
- (2) the imposition and collection of charges for water;
- (3) the disposition of the proceeds of charges;
- (4) the insurance, protection, and maintenance of the leased properties;
- (5) the creation of other obligations payable from the revenues derived from the operation of the leased properties;
- (6) the keeping of books and records by the district; and
- (7) other pertinent provisions which the board considers desirable to assure the payment of amounts due under the lease.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.171. Revenue for Payment of Lease Rental

(a) All money due the lessor under the lease shall be payable solely from the revenue derived by the district from the sale of water supplied through the leased system.

(b) The board shall set and collect charges for the water supplied through the leased properties to produce sufficient revenue at all times to allow for delinquencies and to pay promptly all rental payments becoming due under the terms of the lease. The board may agree to deposit this money in a separate fund as a first charge on the gross reve-

nue received each year from sales of water, and which shall not be used for any other purpose.

(c) The board may agree in the lease to pay all expenses of operating and maintaining the leased properties from the fund provided by the board each year for the maintenance and operation expenses of the district so that the gross revenue from sale of water will be available exclusively for payment of rentals until the amount required for rentals each year is paid into the separate rental fund.

(d) If the board includes this agreement in the lease, the board shall provide for the payment of sums into the maintenance fund from sources other than the remaining portions of the gross revenue from the sale of water not required to pay rentals which are sufficient each year to pay all expenses of operating the district and maintaining and operating its properties and facilities, including the leased properties.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.172. Receiver for Leased Irrigation System

(a) If the district defaults in the payments due under a lease, the lessor may petition a court of competent jurisdiction to appoint a receiver for the leased properties.

(b) The receiver shall operate the properties and collect and distribute the revenue according to the terms of the lease and the direction of the court.

(c) The receiver has the same rights and powers as the board in its operation of the leased properties.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.173. Joint Lease by Two or More Districts

The boards of two or more districts may adopt resolutions to enter into a joint lease under the provisions of Section 58.169 of this code. The joint lease shall specify clearly the respective rights and liabilities of the districts and shall be subject to all the provisions of Sections 58.169 and 58.172 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.174. Authority to Acquire Irrigation System Subject to Mortgage

A district may acquire by gift, grant, or purchase any part of an irrigation system serving the district which is subject to a mortgage or encumbrance. The mortgage or encumbrances shall not be assumed by the district and shall not be an indebtedness of the district but shall constitute solely a charge on the encumbered property and the revenue from it.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.175. Revenue for Payment of Mortgage

(a) The board may determine conclusively by resolution whether the mortgage or encumbrance represents all or part of the cost of the acquired property and constitutes a purchase money lien on the property.

(b) The board may contract to use and pledge its revenue derived solely from the sale of water and services supplied through the acquired properties for the payment of a purchase money lien.

(c) The board also may use revenue from taxation or from the issuance and sale of bonds to pay all or part of the amount due under the encumbrance if a majority of the electors of the district voting at an election on this proposition approve its use.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.176. Election to Approve Revenue for Payment of Mortgage

(a) If tax and bond revenue is pledged to pay amount due under the encumbrance, the district must hold an election and receive the approval of the electors.

(b) An election to approve the use of tax and bond revenue shall be held in the same manner and with the same voters' qualifications as provided for elections on the issuance of the bonds of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.177. Joint Acquisition of Mortgaged System by Two or More Districts

(a) Two or more districts jointly may acquire by gift, grant, or purchase any part of an irrigation system serving the districts subject to a mortgage or encumbrances in the same manner that a single district may acquire the system.

(b) In the proceedings authorizing the acquisition, the boards of the respective districts shall define clearly the respective rights, interest, and liability of the districts in the acquired property and in the mortgage or encumbrance.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.178. Authority to Lease Facilities to Water Customers

(a) A district may lease to any person, firm, or corporation which is a bona fide water customer of the district any of its facilities and may also lease any of the district's land which is appropriate to the utilization of the leased facilities, including, but not limited to land acquired by eminent domain.

(b) The board and the lessee shall agree on the form of the lease and its terms, conditions, provisions, and stipulations; however, the duration of the lease shall not be longer than the duration of the water contract between the district and the lessee

under the primary term of the water contract and any renewal or extension of it.

(c) After a lease to a water customer is authorized by the board, the lease shall be executed by the president or vice-president of the board and attested by the secretary. The lease is valid and effective without any other requirement or prerequisite by the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.179. Expense of Relocation of Facilities

If any district operating under this chapter requires the relocation, raising, lowering, rerouting, or change in grade or alteration in the construction of any railroad, electric transmission, telegraph or telephone lines, conduits, poles, properties, or facilities, or pipelines in the exercise of the power of eminent domain or police power, or any other power, all of the relocation, raising, lowering, rerouting or changes in grade or alteration of construction shall be the sole expense of the district. The term "sole expense" means the actual cost of relocation, raising, lowering, rerouting, or change in grade or alteration of construction to provide comparable replacement without enhancement of facilities, after deducting the net salvage value derived from the old facility. This section does not apply to projects under construction or financed or for which bonds were voted and approved by another type of district on or prior to August 27, 1961, and which such district has subsequently elected to convert into a district operating under this chapter, unless the acts of the district authorizing the construction or financing are contained in the provisions of this section.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.180. Amendments to Water Rights

The board may apply to the commission to amend its water rights as provided by Section 11.122 of this code and the rules of the commission.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 58.181. Suit to Protect Water Rights

The board may institute and maintain any suit or suits to protect the water supply or other rights of the district, to prevent any unlawful interference with the water supply or other rights of the district, or to prevent a diversion of its water supply by others.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.182. Transfer of Water Right

If there is land in a district which has a water right from a source of supply acquired by the district but the land is difficult or impracticable to

irrigate from that source of supply, the district may allow transfer of the water right to other land which is adjacent to the district. The adjacent land may be admitted to the district with the same right of water service as the land from which the water was transferred.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.183. Selling Waterpower Privileges

(a) The district may enter into a contract to sell waterpower privileges if power can be generated from water flowing from the district's reservoirs within its canal system.

(b) The sale of waterpower privileges may not interfere with the district's obligation to furnish an adequate supply of water for the purpose for which the district was organized and for municipal purposes in districts that furnish water for municipal purposes.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.184. Selling Surplus Water

The district may sell any surplus district water for use in irrigation or for domestic or commercial uses to any person who owns or uses land in the vicinity of the district or to other districts which include land in the same vicinity.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.185. Pumping Water to Another District

If the board considers it advisable, it may contract to pump for or supply another district any water in which the other district has a right. The board shall provide the terms of the contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.186. Obtaining Topographic Maps and Data

The department shall furnish to a district topographic maps and data concerning projects undertaken by the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 58.187. Sale of Property not Required for District's Plans

The board may sell at a public or private sale any property or land owned by the district which is not required to carry out the plans of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.188. Notice of Sale of Property not Required for District's Plans

Before either a public or a private sale of property not required by the district's plans, the district

shall give notice of the intent to sell by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.189. Use of Proceeds from Sale of Property not Required for District's Plans

(a) If the district has outstanding bonds, the proceeds of the sale of property not required for the district's plans shall be applied to retire outstanding emergency warrants, if any, issued to protect ultimate liability of the district in condemnation proceedings as provided in this chapter and the remainder, if any, to be placed in the interest and sinking fund account provided for the retirement of outstanding bonds of the district.

(b) If the district does not have money available from other sources to complete the plans for which its construction work and its bonds were authorized, the board may use the proceeds derived from the sale of the property or land not required to carry out the plans of the district to complete the work included in its plans for improvements to the degree required, and any excess of the proceeds shall be applied as provided in Subsection (a) of this section.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.190. Sale of Property not Acquired to Carry Out the Plans of the District

The board may sell property bid in by it at any sale under foreclosure of its tax lien or of its lien for charges or assessments, or any property acquired by it other than for the purpose of carrying out the plans of the district, without formally determining that the property is not required to carry out the plans of the district, without giving notice of the intent of the district to sell the property, and without applying the proceeds of the sale as provided in Sections 58.188 and 58.189 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.191 to 58.220 reserved for expansion]

SUBCHAPTER E. ELECTION PROVISIONS

§ 58.221. Election Procedure

(a) The board shall provide for holding elections and giving notice and shall appoint officers to hold the election at the time the election is ordered.

(b) The officers for the election shall include a presiding judge and an assistant judge and two clerks. More clerks may be appointed if necessary.

(c) The board shall name the polling places, and if more than one polling place is necessary, the board shall divide the district into election precincts. The

polling places may be changed from time to time as required.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.222. Notice of Election

(a) Notice of an election shall be given by order of the board.

(b) The notice shall be signed by the president and secretary of the board and shall state:

- (1) the purpose of the election;
- (2) the propositions and officers to be voted on;
- (3) the polling places; and
- (4) the names of the election officers.

(c) The notice shall be published once a week for three consecutive weeks in a newspaper with general circulation published in the county or counties in which the district is located. If no newspapers are published in these counties, the notice shall be published in the county nearest to the district. The first publication shall be not less than 21 days nor more than 35 days before the day of the election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.223. Preparation and Delivery of Returns

(a) The election officers shall make and deliver the election returns in triplicate. One copy shall be retained by the election judge, one copy shall be delivered to the president of the board, and one copy shall be delivered to the secretary of the board.

(b) The election officers shall give to the newspapers and to other persons requesting them the returns of the election in that box at the time the returns are made.

(c) The ballot boxes and other election records and supplies shall be delivered to the secretary of the board at the district office.

(d) The ballot boxes containing the voted or mutilated ballots shall be preserved for one year after the date of the election subject to the order of any court in which a contest of the election is filed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.224. Canvass of Returns

The board shall meet and canvass the returns of the election not less than five nor more than seven days after the day of the election. If the returns cannot be canvassed within seven days after the date of the election, they shall be canvassed as soon as possible after that time.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.225 to 58.260 reserved for expansion]

SUBCHAPTER F. EMINENT DOMAIN

§ 58.261. Applicable Statutes

Districts operating under this chapter have the power of eminent domain and shall exercise that power in accordance with the general law of eminent domain contained in Articles 3264 through 3271, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.262 to 58.300 reserved for expansion]

SUBCHAPTER G. WATER CHARGES AND ASSESSMENTS

§ 58.301. Statement Estimating Water Requirements and Payment of Charge

(a) Each person who desires to receive water at any time during the year shall furnish the secretary of the board a written statement of the acreage he intends to irrigate and the different crops he intends to plant with the acreage of each crop.

(b) At the time the acreage estimate is furnished to the secretary, each person applying for water shall pay the portion of the water charge or assessment set by the board.

(c) If a person does not furnish the statement of estimated acreage or does not pay the part of the water charge or assessment set by the board before the date for fixing the assessment, the district is not obligated to furnish water to that person during that year.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.302. Contracts with Person Using Water

(a) The board may require each person who desires to use water during the year to enter into a contract with the district which states the acreage to be watered, the crops to be planted, the amount to be paid for the water, and the terms of payment.

(b) If a person irrigates more land than his contract specifies, he shall pay for the additional service.

(c) The directors also may require a person using water to execute a negotiable note or notes for all or part of the amount owed under the contract.

(d) The contract is not a waiver of the lien given to the district under Section 58.309 of this code against the crops of a person using water for the service furnished to him.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.303. Authority to Determine Rules and Regulations

The board may adopt, alter, and rescind rules, and standing and temporary orders which do not conflict with the provisions of this subchapter and which govern:

- (1) methods, terms, and conditions of water service;
- (2) applications for water;
- (3) assessments for maintenance and operation;
- (4) payment and the enforcement of payment of the assessments;
- (5) furnishing water to persons who did not apply for it before the date of assessment; and
- (6) furnishing water to persons who wish to take water for irrigation in excess of their original applications or for use on land not covered by their original applications.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.304. Board's Estimate of Maintenance and Operation Expenses

The board, on or as soon as practicable after a date fixed by standing order of the board, shall estimate the expenses of maintaining and operating the irrigation system for the next 12 months.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.305. Distribution of Assessment

(a) Not less than one-third nor more than two-thirds of the estimated maintenance and operating expenses shall be paid by assessment against all land in the district to which the district can furnish water through its irrigation system or through an extension of its irrigation system.

(b) The assessments shall be levied against all irrigable land in the district on a per acre basis, whether or not the land is actually irrigated. The board shall determine from year to year the proportionate amount of the expenses which will be borne by water users.

(c) The remainder of the estimated expenses shall be paid by assessments against persons in the district who use or who make application to use water. The board shall prorate the remainder as equitably as possible among the applicants for water and may consider the acreage each applicant will plant, the crop he will grow, and the amount of water per acre he will use.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.306. Notice of Assessments

(a) Public notice of all assessments shall be given by posting printed notices of the assessment in at least three public places in the district.

(b) Notice shall be mailed to each landowner at the address which the landowner shall furnish to the board.

(c) The notice shall be posted in a public place and mailed to each landowner five days before the assessment is due, and notice of special assessments shall be given within 10 days after the assessment is levied.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.307. Payment of Assessments

(a) All assessments shall be paid in installments at the times fixed by the board.

(b) If a crop for which water was furnished by the district is harvested before the due date of any installment payment, the entire unpaid assessment becomes due at once and shall be paid within 10 days after the crop is harvested and before the crop is removed from the county or counties in which it was grown.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.308. Collection of Assessments by Tax Assessor and Collector

(a) Under the direction of the board, the assessor and collector, or other person designated by the board, shall collect all assessments for maintenance and operating expenses.

(b) The assessor and collector shall execute a bond in an amount determined by the board, conditioned on the faithful performance of his duties and accounting for all money collected.

(c) The assessor and collector shall keep an account of all money collected and shall deposit the money as collected in the district depository. He shall file with the secretary of the board a statement of all money collected once each week.

(d) The assessor and collector shall use a duplicate receipt book, give a receipt for each collection made, and retain in the book a copy of each receipt, which shall be kept as a record of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.309. Lien Against Crops

The district shall have a first lien, superior to all other liens, against all crops grown on each tract of land in the district to secure the payment of the assessment, interest, and collection or attorney's fees.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.310. List of Delinquent Assessments

Within 10 days after any assessment is due, the board shall post in a public place in the district a list of all persons who are delinquent in paying their

assessments and shall keep posted a correct list of all persons who are delinquent in paying assessments. If a person who owes an assessment has executed a note and contract as provided in Section 58.302 of this code, he shall not be placed on the delinquent list until after the maturity of the note and contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.311. Water Service Discontinued

If a landowner fails or refuses to pay a water assessment when due, his water supply shall be cut off, and no water may be furnished to the land until all back assessments are fully paid. The discontinuance of water service is binding on all persons who own or acquire an interest in land for which assessments are due.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.312. Suits for Delinquent Assessments

Suits for delinquent water assessments may be brought either in the county in which the district is located or in the county in which the defendant resides. All landowners are personally liable for assessments provided in this subchapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.313. Interest and Collection Fees

(a) All assessments shall bear interest from the date payment is due at the rate of 10 percent a year.

(b) If suit is filed to foreclose a lien on crops or if a delinquent assessment is collected by any legal proceeding, an additional amount of 10 percent on unpaid principal and interest shall be added as collection or attorney's fees.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.314. Rights of the United States

(a) If the board enters into a contract with the United States, the remedies in this subchapter available to the district also shall apply to enforce payment of charges due to the United States. The federal reclamation laws shall also apply.

(b) The directors shall distribute and apportion all water acquired by the district under a contract with the United States in accordance with acts of Congress, rules and regulations of the Secretary of the Interior, and provisions of the contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.315. Surplus Assessments

If assessments made under this subchapter are more than sufficient to pay the necessary expenses

of the district, the balance shall be carried over to the next year.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.316. Insufficient Assessments

If the assessments made under this subchapter are not sufficient to pay the necessary expenses of the district, the unpaid balance shall be assessed pro rata, in accordance with the assessments made for the current year. The additional assessments shall be paid under the same conditions and penalties within 30 days after the date of assessment.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.317. Determining Maintenance and Operation Charges

The board may make, establish, and collect maintenance and operation charges for service on the basis of the quantity of water furnished or appropriate measure of the service rendered.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.318. Charges for Maintenance Expenses

(a) If maintenance charges are based on the quantity of water used, a fixed minimum charge may be made on all land, water connections, or other service entitled to receive and use water. An additional charge may be made for the use of more water than that covered by the minimum charge.

(b) The board may install proper measuring devices or require that they be installed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.319. Charge to Cities and Towns

If a district supplies untreated water, the charge for the use of the water and the time and manner of payment shall be determined by the board or fixed by the contract made with the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.320. Loans for Maintenance and Operating Expenses

The board may borrow money to pay maintenance and operating expenses at an interest rate of not more than 10 percent a year and may pledge as security any of its notes or contracts with water users or accounts against them.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.321. Water Service: Refused

The board may refuse water service to any person who refuses to pay the charges and assessments for water service or who fails or refuses to pay any

taxes levied against his property after six months from the date the taxes become delinquent.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.322 to 58.350 reserved for expansion]

SUBCHAPTER H. GENERAL FISCAL PROVISIONS

§ 58.351. Construction Fund

(a) The proceeds from the sale of bonds shall be deposited in the construction fund.

(b) Money deposited in the construction fund shall be used to pay expenses, debts, and obligations necessarily incurred in the creation, establishment, and maintenance of the district and to pay the purchase price of property and construction contracts, including purchases for which the bonds were issued.

(c) If the bonds were issued in accordance with a contract with the United States, debts and obligations may be paid from the construction fund under the terms of or incident to the contract.

(d) After the payment of obligations for which the bonds were issued, any remaining money in the construction fund may be transferred to the maintenance fund.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.352. Maintenance Fund

(a) The district shall have a maintenance fund which shall include money collected by assessment or other method for the maintenance, repair, and operation of the properties and plant of the district or for temporary annual rental due to the United States.

(b) The maintenance fund shall be used to pay all expenses of maintenance, repair, and operation of the district except the expenses of assessing and collecting taxes for the interest and sinking fund shall be paid from the interest and sinking fund.

(c) The district may pay from the maintenance fund other expenses for which the payment is not provided in this chapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.353. Amortization and Emergency Fund

(a) The board shall have a competent engineer make an inspection and valuation of the physical property of the district which is subject to decay, obsolescence, injury, or damage by sudden, accidental, or unusual causes, and based on the inspection and valuation, the engineer shall determine as nearly as he can a sufficient amount to be set aside annually to pay for replacement of each item of physical property at the end of its economic life or

for the restoration or replacement of any item of physical property if it is lost, injured, or damaged.

(b) The board shall set aside a portion of the maintenance fund as it is collected equal to the amount determined under Subsection (a) of this section and shall place this money in the amortization and emergency fund. No part of this fund may be spent except to replace amortized property or to replace or restore lost, injured, or damaged property.

(c) Any amount in the amortization and emergency fund which is not spent for the purposes for which the fund was created may be invested in bonds or interest-bearing securities of the United States.

(d) The board is not required to create an amortization and emergency fund, but if the board does create the fund, it shall be kept up and maintained.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.354. Expenditure of District Funds

Funds of the district shall be paid out on order of the board with warrants drawn for that purpose.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.355. Depository

Before bonds are sold, the board shall select a depository for the district as provided in this chapter, and the proceeds of the bonds shall be placed in the depository and disbursed as provided in this chapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.356. Selection of Depository

(a) The board shall select a depository for the district in the manner provided for the selection of a county depository and shall perform all duties provided by law for the selection of a depository, acceptance and approval of bonds, and other acts.

(b) The depository shall execute a good and sufficient bond approved by the board to fully protect the district and to guarantee the preservation of the funds and the accountability of the depository as provided by law. The bond shall be recorded in the district office and kept in a fireproof vault or safe.

(c) Except as otherwise provided, the duties and the bond and security of the depository shall be the same as provided by law for a county depository.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.357. Functions and Duties of Depository

(a) Funds of the district shall be deposited in the depository and shall be paid out as provided in this chapter.

(b) The funds shall be deposited in the interest and sinking fund account, the construction account, or the maintenance account, and each account shall be maintained separately.

(c) No money may be paid from the interest and sinking fund account except to pay interest and principal on bonds and to pay the expenses of assessing and collecting taxes to pay for the bonds.

(d) The depository shall make a report of all money received and paid out by it at the end of each month and shall file the report and the vouchers with the records of the district in the depository vault. A copy of the report shall be made available for inspection by any taxpayer and shall be delivered to the successor of the depository.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.358. Selecting a Bank as Depository in Which a District Director Has an Interest

(a) If the highest and best bidder to become the district depository is a bank in which a district director is a stockholder or a director, the bank may be selected as the depository if the interested director does not vote on the selection and the approval of the bond.

(b) Before the selection of the bank and the approval of the bond are effective, they must be submitted to and approved by the county judge in the county in which the district is located.

(c) If the county judge fails to approve the depository selected or the bond, new bids shall be requested and another bank selected as district depository.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.359. District Audit

The board shall have a yearly audit prepared and filed in accordance with the provisions of Sections 50.371 through 50.376 of this code, but the board shall have the authority to select its own fiscal year.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.360. Maintenance Tax

(a) A district may levy and collect a tax for maintenance purposes, including funds for planning, maintaining, repairing, and operating all necessary plants, properties, facilities, and improvements of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) A maintenance tax may not be levied by a district until it is approved by a majority of the electors voting at an election held for that purpose.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.361. Maintenance Tax Election

(a) The maintenance tax election may be held at the same time and in conjunction with the election to authorize bonds, and the procedure for calling the election, giving notice, conducting the election, and canvassing the returns shall be the same as the procedure for a bond election.

(b) If only a maintenance tax election is called, the order calling the election shall be issued at least 15 days before the day of the election, and the election notice shall be published at least twice in a newspaper of general circulation in the district. The first publication of the notice shall be at least 14 days before the day of the election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.362. Expenditure of Surplus Maintenance Tax Funds

If a district has any surplus maintenance tax funds which are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.363 to 58.390 reserved for expansion]

SUBCHAPTER I. BORROWING MONEY

§ 58.391. Authority to Borrow Money

The board may declare that funds are not available to meet lawfully authorized obligations of the district, thereby creating an existing emergency, and may borrow money at a rate of not more than 10 percent a year on notes of the district to pay obligations.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.392. Security for Loan

To secure the loan, the board may pledge up to 85 percent of any levied tax of the district which has not been collected by the district or may pledge as collateral any district bonds which have been authorized but not sold.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.393. Maturity Date of Loan

(a) If taxes are pledged to pay for the loan, the loan shall mature not later than the following April 1.

(b) If preliminary or construction bonds are pledged to pay the loan, the loan shall mature not later than six months from the date it is made.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.394. Loan Secured by Bonds

The amount of the loan may not be more than 25 percent of the district's unsold bonds and the par value of the bonds may not be more than 10 percent of the amount of the loan.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.395. Expenditure of Loan Proceeds

No money obtained from a loan under Section 58.391 of this code may be spent for any purpose other than the purposes for which the pledged tax was levied or the pledged bonds were authorized.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.396. Loans Accomplished by Sale of District Bonds

If the loan is secured by the sale of district bonds, the district may enter into an obligation to be conditioned conformably with the usages of investment banking to repurchase the bonds within the five-year period immediately following the date of the loan.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.397. Pledge of Commercial Income

(a) The term "commercial income" means income other than revenue derived from taxation.

(b) If required to do so, a district may pledge its existing and expected commercial income to secure a loan to the extent the pledge will not obviously substantively impair the ability of the district to pay obligations which are held by others.

(c) If a district expects commercial income in the future but does not have the demonstrated income in an amount adequate to discharge the loan when it matures, the district may pledge the expected commercial income as provided in Subsection (b) of this section and in addition, or as an alternative, may pledge with a power of sale its unsold bonds in a par amount which shall not be more than the amount of the loan plus 10 percent. The district is not required to impound the bonds. The rate of interest on the loan may not be more than six percent.

(d) After commercial income is pledged, it may not be used for any purpose except to pay the debt which it secures, and it shall be applied to the reduction of the secured debt as rapidly as practicable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.398. Evidence of Debt

To evidence loans which are not secured by the sale of bonds, the district may execute and deliver to the lender certificates of indebtedness, notes, or obligations and may pledge its full faith and credit

for their payment to the same extent that it may be pledged by district bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.399. Retiring Bonds

If bonds are impounded or pledged to secure a loan made to a district, as the loan is repaid a proportionate amount of the bonds may be withdrawn, cancelled, and retired.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.400 to 58.430 reserved for expansion]

SUBCHAPTER J. ISSUANCE OF BONDS

§ 58.431. Authority to Issue Bonds of Districts Operating under Article III, Section 52, of the Texas Constitution

A district which is operating under Article III, Section 52, of the Texas Constitution, may issue bonds and lend its credit in an amount of not more than one-fourth of the assessed valuation of the real property in the district. However, the total indebtedness of any city or town may never be more than the limits imposed by the Texas Constitution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.432. Authority to Issue Bonds of Districts Operating under Article XVI, Section 59, of the Texas Constitution

A district operating under Article XVI, Section 59, of the Texas Constitution, may incur debt evidenced by the issuance of bonds which is necessary to provide improvements and maintenance of improvements to achieve the purposes for which the district was created.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.433. Amount of Debt Limited by Constitution

No district may issue bonds or create indebtedness in an amount which is more than that authorized by the Texas Constitution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.434. Issuance of Preliminary Bonds

A district may issue preliminary bonds to create a fund to pay:

- (1) costs of organization;
- (2) costs of making surveys and investigations;
- (3) attorney's fees;
- (4) costs of engineering work;
- (5) costs of the issuance of bonds; and
- (6) other costs and expenses incident to organization of the district and its operation in investigating and determining plans for its plant and

improvements and in issuing and selling bonds to provide for permanent improvements.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.435. Election on Preliminary Bonds

(a) The proposition for the issuance of preliminary bonds shall be submitted to the electors of the district.

(b) The election may be held at the same time as the election to confirm the creation of the district or at a later time.

(c) The board shall make an estimate of the expenses to be paid with the proceeds of the preliminary bonds and shall include this estimate in the notice of election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.436. Conditions of Preliminary Bonds

(a) After preliminary bonds have been authorized at an election, the board may order the issuance of the bonds in an amount which is not more than the amount stated in the notice of election.

(b) The bonds may be paid serially or on amortization at any time not more than 10 years from their date.

(c) Although the bonds will be known and designated in the records as preliminary bonds, it is not necessary to make this designation on the bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.437. Tax to Pay Preliminary Bonds

At the time preliminary bonds are issued, a tax shall be levied to pay principal and interest as the bonds mature and to pay the cost of assessing and collecting the taxes.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.438. Issuance of Bonds

(a) After a district is created and has adopted plans for construction of a plant and improvements, it may issue bonds to pay for constructing the plant and improvements and to pay costs and charges incident to the construction including the cost of necessary property and the retirement of preliminary bonds.

(b) The maximum amount of bonds which may be issued may not be more than the amount of the engineer's estimate plus the additional amounts added by the board in the election order.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.439. Purposes for Issuance of Bonds

The district may issue bonds to include:

- (1) the cost of organization of the district;

- (2) incidental expenses;
- (3) the cost of investigation and making plans;
- (4) the engineer's work and other incidental expenses;
- (5) the cost of retirement of preliminary bonds;
- (6) the cost of issuing and selling bonds;
- (7) the estimated discount on the bonds;
- (8) the cost of operation of a district for the period of construction of the Plant and improvements stated in the engineer's report;
- (9) an amount to pay interest on the bonds during the period stated in the engineer's report, which shall not be more than three years from the time the bonds are sold; and
- (10) any additional cost or expense made necessary by any change or modification made in the proposed work by the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.440. Engineer's Report

(a) Before an election is held to authorize the issuance of bonds, an engineer's report, which includes the plans and improvements to be constructed together with maps, plats, profiles, and data showing and explaining the engineer's report, shall be filed in the office of the district and shall be available for public inspection.

(b) The engineer's report shall contain a detailed estimate of the cost of improvements, including the cost of any property to be purchased, and an estimate of the time required to complete the improvements to the degree to which they may provide service.

(c) The board shall consider the engineer's report and may make changes in the report and note them in the minutes.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.441. Election Order

(a) After the engineer's report is filed and approved, the board may order an election in the district to authorize the issuance of bonds.

(b) In the order, the board shall estimate the total amount of money needed to cover the items listed in Section 58.439 of this code.

(c) The election order shall state:

- (1) the proposed maximum interest rate on the bonds;
- (2) the maximum maturity date of the bonds;
- (3) the time and places for holding the election; and
- (4) the names of the election officers.

(d) The election order shall be entered in the minutes of the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.442. Notice of Election

(a) Notice of the bond election, signed by the president and secretary of the board, shall be published once a week for four consecutive weeks in a newspaper with general circulation in the county or counties in which all or part of the district is located. The first publication shall be at least 28 days before the day of the election.

(b) The notice shall include:

- (1) the maximum amount of bonds to be issued;
- (2) the proposed maximum interest rate;
- (3) the maximum maturity date;
- (4) the time and places for holding the election;
- (5) a substantial statement of the proposition;
- (6) a summary of the engineer's estimate of the cost of the proposed improvements; and

(7) a statement of any estimate or estimates made by the board in its order calling the election.

(c) If a contract with the United States is proposed at the election, the notice shall state the maximum amount of money to be paid for construction purposes, exclusive of penalties and interest.

(d) A copy of the election notice, together with a copy of the published notice with publisher's affidavit attached, shall be filed in the office of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.443. Ballots

(a) The proposition to be voted on shall be the issuance of the total amount of bonds covered by the engineer's estimate plus additional estimates made by the board.

(b) The ballots shall be printed to provide for voting for or against: "The issuance of bonds and the levy of taxes to pay for the bonds."

(c) If a contract is proposed with the United States under the federal reclamation laws, the ballots shall be printed to provide for voting for or against: "The contract with the United States and the levy of a tax to pay the contract."

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.444. Vote at Election

(a) Bonds of a district operating under the provisions of Article III, Section 52, of the Texas Constitution, may be issued only with the approval of two-thirds of the electors of the district participating in the election.

(b) In a district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, bonds may be issued or indebtedness created only with the approval of a majority of the electors of the district participating in the election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.445. Order to Issue Bonds or Execute Contract

After the vote is canvassed and the results are declared to be favorable to the proposition, the board shall make and enter an order directing the issuance of the bonds or the execution of a contract with the United States. The bonds or contract shall be in a sufficient amount to pay for the improvements together with all necessary incidental expenses, but the amount may not be more than the amount specified in the election order and notice of election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.446. Record of Bond Proceedings Submitted to Attorney General

(a) After a district issues bonds other than preliminary bonds, but before they are sold, the record showing all the proceedings in the creation of the district and the issuance of the bonds shall be filed in the office of the attorney general.

(b) The attorney general shall examine the record and give his opinion on it.

(c) The record may be presented to the attorney general before the bonds are printed, and the bonds may be executed after the record is completed.

(d) After the record is approved, the bonds shall be issued or duly executed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.447. Approval and Registration of Bonds

(a) After the bonds are issued and executed, they shall be submitted to the attorney general for approval.

(b) If the attorney general finds that the bonds are issued according to law and are valid, binding obligations of the district, he shall officially certify the bonds and execute a certificate, which shall be filed with the comptroller and recorded in the book kept for that purpose.

(c) The bonds may not be registered with the comptroller until 20 days after the day of the election authorizing the issuance of the bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.448. Validity of Bonds

After the bonds are approved by the attorney general and registered by the comptroller, they shall be held to be valid, binding obligations of the district in any suit testing their validity. Any person interested in the bonds may file a suit before the bonds are registered to test the validity, but may not bring suit to test validity after the bonds are registered.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.449. Conditions of Bonds

(a) The bonds may be issued to mature at the end of a term of years or to mature serially at any date which is not later than the maximum maturity date stated in the election order.

(b) The bonds may be issued at any rate of interest which is not more than the rate of interest set in the election order.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.450. Form of Bonds

(a) The bonds shall be issued in the name of the district and shall be signed by the president and attested by the secretary, with the seal of the district attached.

(b) The bonds shall be issued in denominations of \$100 or multiples of \$100 and shall be payable annually or semiannually.

(c) The board shall determine and include in the bonds the time, place, manner, and condition of payment of principal and interest on the bonds, but none of the bonds may be made payable more than 40 years from their date.

(d) The lien for payments due to the United States under a contract that was not accompanied by a deposit of bonds with the United States shall be a preferred lien to that of any issue of bonds of any series or any issue of bonds subsequent to the date of the contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.451. Authority of Commission over Issuance of District Bonds

(a) The executive director shall investigate and report on the organization and feasibility of all districts that issue bonds under this chapter.

(b) Any district that desires to issue bonds under this chapter shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and shall be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish a copy of the report to the board of the district.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report

which it shall file in its office and a copy of the report shall be furnished to the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 58.452. Department Supervision of Projects and Improvements

(a) During construction of projects and improvements approved by the commission, no substantial alterations may be made in the plans and specifications without the approval of the commission.

(b) The executive director may inspect the improvements at any time during construction to determine if the project is being constructed in accordance with the plans and specifications by the commission.

(c) If the executive director finds that the project is not being constructed in accordance with the approved plans and specifications, he shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board of the district does not take steps to insure that the project is being constructed in accordance with the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives this notice, he may bring an action for injunctive relief or quo warranto proceedings against the directors. Venue for either suit is exclusively in a district court in Travis County.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 58.453. Validation Suit

(a) A district may file a suit to determine the validity of the creation of the district and the bonds.

(b) If requested by the Secretary of the Interior, the district shall file a suit to validate a contract made with the United States.

(c) If a validation suit is filed, the bonds do not have to be approved by the attorney general.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.454. Effect of Prior Registration

If bonds are approved by the attorney general and registered by the comptroller before a validation suit is filed, the filing of the suit cancels the prior registration.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.455. Procedure in Validation Suit

(a) A validation suit shall be brought by the district in the district court of any county in which all or part of the district is located or in a district court in Travis County.

(b) The suit shall be in the nature of a proceeding in rem.

(c) Any person who is interested in the suit may intervene and file an answer.

(d) The issue shall be tried and determined by the court and judgment shall be entered on the findings.

(e) Repealed by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(53), eff. Aug. 31, 1981.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 2646, ch. 707, § 4(53), eff. Aug. 31, 1981.]

§ 58.456. Notice of Validation Suit

(a) To obtain jurisdiction of all parties to the validation suit, a general notice shall be published.

(b) The notice shall be published once a week for at least two consecutive weeks before the term of the court at which the notice is to be returned. The notice shall be published in a newspaper with general circulation in the county or counties in which the district is located, but if no newspaper is published inside the district, the notice shall be published in a newspaper in the nearest county in which a paper is published.

(c) Notice also shall be served on the attorney general in the manner provided in civil suits.

(d) The attorney general may waive notice if he is furnished a full transcript of the proceedings held in connection with the creation of the district and the issuance of the bonds or held in connection with the authorization of a contract with the United States. A copy of the contract with the United States also must be furnished.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.457. Duties of Attorney General in Validation Suit

(a) The attorney general shall examine all the proceedings and shall require any further evidence and make any further examination which he considers advisable.

(b) The attorney general then shall file an answer to the suit, submitting the issue of whether the proceedings are valid and the bonds are legal and binding obligations of the district, or whether the contract with the United States is legal and binding on the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.458. Judgment in Validation Suit

(a) After the trial of the validation suit, if the judgment of the court is adverse to the district on any issue, the district may make an exception and point out the error, and the error may be corrected by the judge in the manner directed by the court.

(b) The judgment shall be rendered showing that the corrections have been made and that the bonds or the contract with the United States are binding obligations of the district.

(c) After the judgment is entered, it is res judicata in all cases which may arise in connection with:

- (1) the collection of the bonds or their interests;
- (2) any taxes levied to pay charges or any money required to pay a contract with the United States; and

- (3) all matters relating to the organization and validity of the district or the validity of the bonds or contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.459. Effect of Validation Suit

(a) After a final judgment is rendered in the validation suit, the bonds or the contract with the United States shall be incontestable.

(b) No suit may be brought in any court of this state to contest or enjoin the validity of the creation of the district, any bonds which are issued, any contract with the United States, or the authorization of a contract with the United States, except in the name of the State of Texas by the attorney general on his own motion or on the motion of any party affected on good cause shown.

(c) The attorney general may not file or prosecute such a suit unless it is based on allegations of fraud disclosed or found after the final judgment in the validation suit was rendered.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.460. Certified Copy of Decree

(a) After the judgment of the district court is entered, the clerk of the court shall make a certified copy of the decree which shall be filed with the comptroller. The comptroller shall record the decree in the book kept for that purpose.

(b) The certified copy of the decree or a certified copy of the comptroller's record of the decree shall be received in evidence in any suit which may affect the validity of the organization of the district or the validity of the bonds or the contract and shall be conclusive evidence of validity.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.461. Registration of Bonds and Decree

On the presentation of the bonds together with a certified copy of the decree of the court, the comp-

troller shall register the bonds in a book kept for that purpose. The comptroller shall attach to each bond a certificate stating that the court's decree has been filed and recorded in his office and shall sign the certificate and attach his official seal.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.462. Sale of Bonds

(a) After the bonds are issued by the district, the board shall sell the bonds on the best terms and for the best price possible.

(b) The board shall pay the proceeds from the sale of the bonds to the district depository.

(c) The district may exchange bonds for property acquired by purchase or to pay the contract price of work done for the use and benefit of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.463. Tax Levy

(a) At the time the bonds are voted, the board shall levy a tax on all property inside the district subject to district taxation in a sufficient amount to redeem and discharge the bonds at maturity.

(b) The board annually shall levy or have assessed and collected taxes on all property inside the district in a sufficient amount to pay installments and interest as they become due.

(c) If a contract is made with the United States, the board annually shall levy taxes on property inside the district in a sufficient amount to pay installments and interest as they become due.

(d) The board may issue the bonds in serial form or payable in installments, and the tax levy shall be sufficient if it provides an amount sufficient to pay the interest on the bonds, the proportionate amount of the principal of the next maturing bond, and the expenses of assessing and collecting the taxes for that year.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.464. Adjustment of Tax Levy

(a) The board may from time to time increase or diminish the tax to adjust it for the taxable values of the property subject to taxation by the district and the amount required to be collected.

(b) The board shall raise an amount sufficient to pay the annual interest of and principal on all outstanding bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.465. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 58.466. Interest and Sinking Fund

(a) The district shall have an interest and sinking fund which shall include all taxes collected under this chapter.

(b) Money in the interest and sinking fund may be used only:

(1) to pay principal and interest on the bonds;
(2) to defray the expenses of assessing and collecting the taxes; and

(3) to pay principal and interest due under a contract with the United States if bonds have not been deposited with the United States.

(c) Money in the fund shall be paid out of the fund on warrants by order of the board as provided in this chapter.

(d) The depository shall receive and cancel each interest coupon and bond as it is paid and shall deliver it to the board to be recorded, cancelled, and destroyed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.467. Investment of Sinking Fund

(a) The board may invest any portion of the sinking fund of the district in bonds of the United States, the state, any county or city in the state, any irrigation or water improvement district, school district, or other tax bonds issued under the laws of the state.

(b) The funds may be invested if the bonds to be paid with them do not mature within three years from the time the investment is made and if it is necessary to preserve the best interest of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.468. Refunding Bonds

(a) The district may refund any bonds issued by it by issuing new bonds.

(b) Refunding bonds may be issued only if the old bonds are taken in exchange at their face value or less or new bonds can be sold at a premium and the old bonds retired without loss to the district.

(c) The comptroller may not register the refunding bonds until the old bonds for which the refunding bonds are being issued are presented to him for cancellation or until a valid contract providing for the purchase or exchange of the old bonds is executed and a copy filed in his office.

(d) The comptroller shall keep the refunding bonds until the old bonds are presented to him for

exchange or payment, and if the old bonds are presented for payment, the district shall pay them before the refunding bonds are registered.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.469. Limitation of Authority to Incur Debt and Issue Bonds

(a) For the benefit of purchasers or holders of bonds to be issued or sold, the board of a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, may limit the authority of the district to incur debt or issue bonds.

(b) The board shall limit the authority by adopting a resolution which states that during a period of not more than 15 years the district will not issue bonds in an amount of more than 25 percent of the assessed value of taxable real property in the district according to the last assessment for district purposes or in an amount of more than a fixed sum or for certain named purposes.

(c) The board shall publish notice of the adoption of the resolution once a week for two consecutive weeks in a newspaper with general circulation in the district. The notice shall state that the resolution will take effect unless a petition against the proposed limitation signed by 20 percent of the electors of the district is presented within 20 days after the first publication of the notice.

(d) If a petition is filed against the limitation, the resolution will not take effect until it is approved at an election held in the district.

(e) The ballots for the election shall be printed to provide for voting for or against: "The limitation during the term of years of the maximum debt of the district to _____." (The blank space shall be filled with the purpose of the election).

(f) If the limitation is approved at an election or if no petition is filed against the resolution, the district may not issue bonds under any statute or constitutional provision in excess of the limitation during the designated term of years except to complete and make repairs to improvements whose cost will be within the debt limitation.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.470. Issuing Bonds in Excess of Limitation

(a) A district may issue bonds in excess of a limitation made under Section 58.469 of this code only after the commission has approved the plans and specifications with the estimate of costs.

(b) If the plans, specifications, and estimate are approved, notice of the intention to issue the bonds shall be published once a week for three consecutive weeks in a newspaper with general circulation in the district. The notice shall include a statement of the purpose for issuing the bonds, the amount of the proposed bond issue, and the time the hearing is

to be held, which may not be less than 30 days after the notice is first published.

(c) The board shall hold the hearing and any taxpayer, bondholder, or other interested person may appear and be heard.

(d) If the board approves the issuance of the additional bonds in the amount and for the purpose stated in the notice, the question of issuing the bonds shall be submitted to the electors of the district at an election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.471. Modifications or Improvements

(a) After bonds are issued or a contract is entered into with the United States, the board may give notice of an election to be held to authorize the issuance of additional bonds or a further contract with the United States.

(b) Additional bonds may be issued or a supplemental contract made if the board considers it necessary to:

(1) make modifications in the district or its improvements;

(2) construct further or additional improvements and issue additional bonds on the report of the engineer;

(3) make a supplemental contract with the United States; and

(4) make, on its own motion, additional improvements or purchase additional property to accomplish the purposes of the district and to serve the best interest of the district.

(c) The board shall enter its findings in the minutes.

(d) The election shall be held and the returns made in the manner provided in this chapter for the original election.

(e) If the result of the election favors the issuance of the bonds or the supplemental contract with the United States, the board may order the bonds issued or the contract made with the United States in the manner provided in this chapter.

(f) If a supplemental contract is made with the United States and bonds are not to be deposited with the United States, it is not necessary to issue bonds. If the district is required to raise money in addition to the amount of the contract, the bonds shall be issued only in the additional amount needed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.472. Issuance of Additional Bonds or Creation of Additional Indebtedness under Certain Conditions

(a) A district may issue additional bonds or create additional indebtedness:

(1) if works, improvements, and facilities constructed under a plan provided in Section 58.440 or 58.452 of this code are inadequate to accomplish the beneficial results which the district's location and conditions demand;

(2) if it is considered necessary to make repairs, replacements, or additions to the district's improvements which cost more than \$25,000; or

(3) if additional money is needed to complete the improvements as planned.

(b) The district shall provide the additional money for the particular purpose in accordance with the provisions of this chapter regulating the creation of bond obligations subject to every limitation with respect to the original proceedings and the substantial protection of the substantive rights of holders of any of the district's outstanding obligations.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.473. Interim Bonds

After bonds, other than preliminary bonds or notes, are voted by a district, the board may declare an existing emergency with relation to money being unavailable to pay for engineering work, purchase of land, rights-of-way, construction sites, construction work, and legal and other necessary expenses and may issue interim bonds on the faith and credit of the district in the manner provided in Sections 58.474-58.479 of this code to pay these expenses.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.474. Limitations on Interim Bonds

(a) Interim bonds shall mature not later than 10 years from the date they are issued, and shall be redeemable at any time before they mature, as provided in this subchapter.

(b) The principal amount of the interim bonds may not be more than 25 percent of the principal amount of the district's bonds which have been voted but not sold.

(c) Before the issuance of the interim bonds, the board, by resolution, may limit the issue to any amount less than 25 percent, and after the amount is determined and fixed by the resolution, no additional interim bonds may be issued and sold until all outstanding interim bonds are paid.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.475. Issuance of Bonds and Levy of Tax

(a) After bonds other than preliminary bonds are voted, the board may authorize the issuance of the bonds in whole or in part as they are needed by the district.

(b) The board shall levy and annually assess and collect sufficient taxes to pay principal and interest on the bonds.

(c) The bonds may be approved by the attorney general and registered by the comptroller before the filing of the report of the Texas Water Rights Commission under Section 58.451 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.476. Deposit of Bonds to Secure Interim Bonds

(a) As the interim bonds are issued and sold, the board, by order, shall deposit bonds of the district which have been validated by a court or approved by the attorney general and registered by the comptroller as provided in Section 58.447 of this code in the district depository.

(b) The bonds deposited shall be credited to the interest and sinking fund account created to pay the interim bonds.

(c) The principal amount of the bonds deposited shall total at least 110 percent of the principal sum of the series of interim bonds which the bonds are deposited to secure.

(d) The interest rate on the interim bonds may not be more than the interest rate on the bonds deposited to secure them.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.477. Procedure for Issuance and Sale of Interim Bonds

(a) Interim bonds shall be issued in the name of the district, signed by the president, and attested by the secretary, with the district seal attached to each bond.

(b) The interim bonds may be issued in the denominations determined by the board and shall be approved by the attorney general and registered by the comptroller in the same manner as provided in Section 58.447 of this code.

(c) The interim bonds may be sold in the same manner and on the same terms provided by law for the sale of other bonds of the district.

(d) If interim bonds are sold at less than par value and accrued interest, the improvement bonds issued by the district must be sold at an increase over the price authorized by law in an amount sufficient to equal the discount allowed on the interim bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.478. Payment of Interim Bonds

(a) The board shall appropriate the tax levied to pay the bonds deposited to the credit of the interest and sinking fund to pay the interim bonds or as much of that tax as necessary to secure the loan evidenced by the interim bonds.

(b) The proceeds of the tax shall be devoted exclusively to the payment of the principal and interest on the interim bonds.

(c) None of the provisions of this subchapter relating to interim bonds shall be construed as prohibiting the sale of bonds deposited to the credit of the interest and sinking fund to pay interim bonds or of any other bonds of the district, but if any of these bonds are sold, the district depository shall apply the proceeds to the payment of principal and accrued interest on the interim bonds and the remainder to the purposes for which the bonds were authorized.

(d) If none of the bonds are sold at the time an installment on the principal and interest of interim bonds matures, the depository shall cancel the deposited bonds and attached interest coupons in an amount equal to the principal and interest of the interim bonds paid off and discharged.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.479. Redemption of Interim Bonds

(a) At the option of the board, interim bonds may be redeemed at any time or times before maturity on payment by the district of the principal and accrued interest to the date fixed for redemption by the board.

(b) When interim bonds are called for redemption before maturity, the secretary shall give written notice of the redemption to the bank or banking house named as the place of payment in the bonds or to its successor or assign.

(c) In the notice, the secretary shall designate the bond or bonds called for redemption and payment and shall state the number or numbers of the bonds.

(d) The notice shall include the redemption date which shall not be more than 60 days after the date notice of call for payment is made.

(e) If any of the bonds which are called for redemption are not presented, they shall cease to bear interest from and after the date fixed for redemption.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.480. Alternate Methods for Paying Bonds

(a) As used in this section and in Sections 58.481-58.484 of this code, "net revenue" means income or increment which may come from ownership and operation of the improvements which are encumbered less the proportion of the district's revenue income reasonably required to provide for administration, efficient operation, and adequate maintenance of the district's services and facilities which are encumbered. Net revenue does not include money derived from taxation.

(b) A district which expects net revenue from operations may secure its bonds in any one of the following:

(1) as provided in Section 58.463 of this code;

(2) by entering into a contract to pledge the net revenue of the district and to mortgage and encumber part or all of the property and facilities, franchise, revenue, and income from operations, and everything acquired or to be acquired by the district; or

(3) as provided in both Subdivisions (1) and (2) of this subsection.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.481. Taxes to Secure Certain Bonds

(a) If bonds are secured as provided in Section 58.480(b)(3) of this code, at the time that net revenue together with money derived from taxes accumulates a surplus in the sinking fund equal to the amount required in the succeeding year to liquidate the interest and principal on the district's bonds maturing in that year, the district's annual tax levies may be lowered to produce not less than 25 percent of the bond maturities for the succeeding year.

(b) If three successive years demonstrate that this net revenue is adequate to protect the district's bonds as they mature, the district's tax may be discontinued until further experience demonstrates the necessity to continue the tax to avoid default in the payment of the district's bonds as they mature.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.482. Election

(a) If the district proposes to issue bonds which will be secured under either Section 58.480(b)(2) or 58.480(b)(3) of this code, the proposition shall be presented at an election held under Section 58.443 of this code.

(b) The ballots for the election shall be printed to provide for voting for or against one of the following propositions:

(1) "The issuance of bonds and the pledge of net revenue for the payment of the bonds.";

(2) "The issuance of bonds, the pledge of net revenue, and the creation of a lien on physical property to secure payment of the bonds."; or

(3) "The issuance of bonds, the pledge of net revenue, and the levy of adequate taxes to pay the bonds."

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.483. Hearing and Election on Certain Bonds

(a) A district which plans to issue bonds payable from and secured by a pledge of net revenue and a lien on the physical property, either or both, without

the levy of taxes, is not required to hold a hearing to exclude land or adopt a plan of taxation.

(b) The proposition for issuance of bonds may be submitted at the election held to confirm the creation of the district or at an election called by the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.484. Hearing Before Issuing Certain Bonds

If a district issues its original bonds under Section 58.480(b)(2) of this code and later desires to issue bonds payable in whole or in part from taxes or to levy a tax for maintenance purposes, the district shall hold a hearing to exclude land, and at the time provided by law, shall hold another hearing to adopt a plan of taxation. These hearings shall be held before an election is called to approve the issuance of tax-supported bonds or the levy of a maintenance tax.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.485 to 58.500 reserved for expansion]

SUBCHAPTER K. TAX PLAN

§ 58.501. Tax to Pay Preliminary Bonds

Taxes to pay principal and interest on preliminary bonds shall be levied and collected on the ad valorem basis.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.502. Hearing to Determine Basis of Taxation

After the board adopts plans for construction of a plant and improvements to accomplish the purposes of the district and after an election is held to authorize the issuance of construction bonds and the levy of a tax to pay for the bonds, the board shall hold a public hearing to determine whether the taxes to pay the construction bonds and maintenance, operation, and administrative costs of the district shall be levied, assessed, and collected on:

- (1) the ad valorem basis;
- (2) the basis of assessment of specific benefits;
- (3) the basis of assessment of benefits on an equal sum per acre; or
- (4) the ad valorem basis for part of the total tax or defined area or property and on the benefit basis for the other part of the tax or defined area or property.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.503. Notice of Hearing

Notice of the time and place of the hearing and the proposition to be determined shall be published once a week for two consecutive weeks in one or more newspapers with general circulation in the

district. The first publication shall be made not less than 10 days before the day of the hearing set in the notice.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.504. Conduct of Hearing

(a) At the hearing, any person who is a taxpayer in the district may appear and offer testimony to show which plan of taxation will be most conducive to equitable distribution of taxes.

(b) The hearing may be adjourned from day to day until all persons wishing to testify have been heard.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.505. Order

(a) The board shall adopt the plan of taxation which will, in its judgment under the evidence, be most conducive to the equitable distribution of the district's tax.

(b) If the plan adopted by the board is made under the provisions of Section 58.512 of this code, the order shall specify the proportion of the tax which falls under each designated classification.

(c) The order of the board is final and cannot be reviewed or questioned in any court except on the ground of fraud or palpable and arbitrary abuse of discretion.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.506. Changing Tax Plan

If after a tax plan is adopted the directors find that the best interest of the district and the necessity to maintain adequately and equitably the district's tax requires a change in the tax plan, the board may give notice, hold a hearing, and determine a new plan in the manner provided in Sections 58.502-58.505 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.507. Effect of Sections 58.501-58.506 of This Code

Nothing in Sections 58.501-58.506 of this code shall be held to alter provisions of this chapter relating to districts which have contracts with the United States or to alter or impair the provisions of this code relating to taxes levied to provide local improvements to a defined area which do not affect the entire district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.508. Unlimited Authority to Collect Service Charges and Taxes

The provisions of this subchapter do not alter or impair the right of a district:

- (1) to make, establish, and collect maintenance and operation charges for service rendered;
- (2) to levy and collect taxes to secure funds to maintain, repair, and operate all works and facilities; and
- (3) to give and maintain proper service for the purposes of its organization.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.509. Lien Created; No Limitation

Charges or assessments imposed by a district for maintenance and operation of works, facilities, and services of the district shall constitute a lien against the land to which the charges or assessments have been established. No law providing limitation against actions for debt shall apply.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.510. Purpose of Sections 58.511–58.529 of Code

The purpose of Sections 58.511–58.529 of this code is to give a district the flexibility of taxing power which will permit and cause the tax of the district to be equitably distributed and which will give the highest practicable degree of service under the peculiar physical and economic conditions of the district. To this end, these sections shall be liberally and sympathetically construed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.511. Authority to Adopt Alternative Plans of Taxation

A district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, shall adopt a tax plan under the alternative provisions of Sections 58.512–58.529 of this code either at the time of its creation or before the appointment of commissioners of appraisal under this chapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.512. Alternative Plans of Taxation

(a) The district's taxes for all purposes, except to pay the cost of preliminary surveys, may be levied, assessed, and collected on an adopted basis to be chosen from the alternatives provided in this section.

(b) The district's tax plan may be based on any one of the following:

- (1) ad valorem basis;
- (2) benefit basis;
- (3) ad valorem basis to obtain a part or percentage of the total tax or to apply to a specific part of the district and benefit basis applied to the other part of percentage of the tax or to the remaining part of the district; or

(4) either ad valorem or benefit basis on designated property or defined areas of the district to pay for improvements, facilities, or service peculiar to the defined part of the district and not generally and directly benefiting the district as a whole.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.513. Adoption of Plan of Taxation

(a) Except as provided in Section 58.512(b)(4) of this code, before the commission of appraisal is appointed and the construction bonds are sold, the board shall adopt a proposed plan of taxation as provided in Sections 58.502–58.505 of this code.

(b) If the tax plan is not based wholly on the ad valorem basis or on the benefit basis, the order adopting the proposed plan shall specify the portion of the tax to be based on the ad valorem basis and the portion to be based on the benefit basis. The board also shall state the physical and economic reasons, the peculiar diverse local needs, or the comparative potential benefits of different areas of designated property in the district which make it necessary or equitable to levy all or part of the tax on a defined part of the district on the ad valorem or benefit basis.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.514. Notice of Adoption of Plan and Hearing

(a) After the tax plan is adopted, the board shall publish notice once a week for two consecutive weeks in one or more newspapers with general circulation in the county or counties in which the district is located.

(b) The notice shall state:

- (1) that the tax plan has been adopted;
- (2) that the plan is available for public inspection in the district's office;
- (3) that a hearing on the plan will be held by the board at a specified place and at a particular time, which shall not be less than 15 days nor more than 20 days after the first publication of notice; and
- (4) that all interested persons may appear and support or oppose all or part of the proposed tax plan and offer testimony.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.515. Order Adopting Tax Plan

(a) After all persons have been heard, the board may approve the proposed tax plan or may change or modify the plan.

(b) The board shall adopt a tax plan which it considers, under the evidence before it, most equitably distributes the tax burden and conserves the public welfare.

(c) The board shall enter its order establishing the tax plan, and the plan shall become the basis for the assessment and collection of taxes until the district adopts a different plan.

(d) The order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

(e) A new plan may be adopted if required to preserve equity of distribution in the manner provided for adopting the original plan; however, no change may be made in the tax plan which will impair the ability of the district promptly to meet all outstanding obligations of the district within the intent of Sections 58.464 and 58.467 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.516. Obtaining Funds to Construct, Administer, Maintain, and Operate Improvements and Facilities in Defined Part of District

On adoption of the plan of taxation provided in Section 58.512(b)(4) of this code, the district, in the manner provided in Sections 58.517–58.523 of this code, may provide, pay for, maintain, and operate improvements, service, or facilities peculiar to a designated area or defined property which do not affect the whole district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.517. Defining Area and Designating Property to be Benefited by Improvements; Adopting Tax Plan

(a) The board shall define the particular area to be taxed by metes and bounds or designate the property to be served, affected, and taxed.

(b) The board shall adopt a plan for improvements in the defined area or to serve the designated property in the manner provided in Sections 58.440–58.441 of this code.

(c) The board shall adopt a plan of taxation to apply to the defined area or designated property which may or may not be in addition to other taxes imposed by the district on the same area or property. The proportional tax or income contributions of the defined area or designated property and the proportional and equitable interest of the entire district shall be taken into consideration in imposing any tax to an area or piece of property.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.518. Notice and Hearing

The board shall give notice and hold a hearing in the same manner and for the same purpose as provided in Sections 58.514–58.515 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.519. Board's Order

At the hearing, if the board decides to define and serve the proposed separate tax area or separate designated property, it shall enter an order in the record, and if the proposal involves the issuance of bonds, the board shall call an election in the whole district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.520. Procedure for Election

(a) The election shall conform to the provisions of this code relating to an election to authorize the issuance of construction bonds.

(b) The board shall submit the appropriate issues to the electors, and the issues may be submitted on the same ballot to be used in another election.

(c) The notice of election shall define the area to be designated and the plan of taxation to be applied.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.521. Election not Required in Separate Election Precinct

If proposed improvements are considered to be required to promote the public welfare or if the owners of the land in a defined area file a petition acknowledged as required for deeds requesting the district to provide improvements and assess a tax only in the defined area, it is not necessary to constitute the area a separate election precinct and have a separate election in that area.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.522. Ballots

The ballots for an election under this subchapter shall be printed to provide for voting for or against substantially the proposition: "Designation of the area, issuance of bonds, and levy of a tax to retire the bonds."

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.523. Declaring Result and Issuing Order

If a majority of the electors approve the proposal, the board shall declare the result and, by order, shall establish the area and define it by metes and bounds or designate the specific property and shall fix the tax basis for the area or property. A certified copy of the order shall be recorded in the minutes of the district and shall constitute notice.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.524. Pledge of Faith and Credit

If at an election the electors approve the issuance of bonds and the levy of a tax which applies only to a defined area, the district may issue bonds which pledge only the faith and credit based on the proper-

ty values in the defined area; however, the district may pledge the full faith and credit of the entire district under the condition of authorization in Section 58.528 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.525. Election in Separate Election Precinct

(a) If the improvements to be provided in a defined area are considered peculiarly for the benefit of that area and not required to conserve the public or general welfare in the district as a whole, and if the proposed improvements in that area will require the imposition of a tax only on the property in the area, the defined area is constituted a separate election precinct in which a separate election shall be held to determine if the improvements will be provided and a separate tax levied.

(b) The election shall be held in the manner provided for issuance of bonds under this subchapter.

(c) If a majority of the electors in the defined area approve the propositions, the district shall provide money when necessary and shall provide the improvements and levy the tax.

(d) At an election in the defined area, each qualified elector of the district who owns property in the defined area may elect to vote in the area and not in the precinct of his residence.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.526. Issuance of Bonds and Levy of Tax for Defined Area or Designated Property

(a) After the order is recorded, the district may issue its bonds to provide the specific plant, works, and facilities included in the plans adopted for the area or to serve the property and shall provide the plant, works, and facilities.

(b) In the appropriate case, the board shall levy, assess, and collect taxes on the property located in the defined area or on the designated property in conformity with the adopted tax plan.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.527. Contract to Provide Improvements, Facilities, and Services to Designated Property or Area

(a) Property or areas inside or outside the district may, by contract, be designated to obtain improvements, facilities, or service for the designated area or property.

(b) The designation shall be based on a written petition in conformity with the laws authorizing contracts by a petitioner or person owning, controlling, or governing the property or area to be designated.

(c) The board may make the designation in a contract to provide, administer, maintain, and oper-

ate the desired improvements, facilities, or service for the designated area or property, and the designated area or property shall be subject to a tax lien in an amount to retire the obligations incurred by the district to provide the facilities, improvements, or service and to cover the expenses necessary to administer, maintain, and operate the improvements and facilities under the contract.

(d) The contract may not violate the law of this state or the United States and may not result in impairing a vested right or causing the district to fail to serve fully and permanently water demands in the district in the order of preference of uses.

(e) The contract may provide that one governing body may establish the contractual and statutory tax lien in behalf of the district and may levy, assess, and collect the tax for and on behalf of the district.

(f) The district may not issue bonds pledging the full faith and credit of the district under this section or under Section 58.517 of this code without submitting the proposition to the electors of the whole district under the provisions of this subchapter or under the provisions authorizing the issuance of construction bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.528. Authority of District

(a) If a majority of the electors in the whole district approve the proposal, the district may issue its bonds to provide the plant, improvements, and facilities peculiar to the defined area or designated property or peculiar to a contract for services and may pledge the full faith and credit of the district to pay for the bonds.

(b) The district shall have a lien on the property in the defined area or on the designated property and may levy, assess, and collect or have levied, assessed, and collected taxes in the area or on the property to protect the district from or to compensate any liability incurred on behalf of the defined area or designated property.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.529. Administrative Authority of Board

The board shall administer all business incident to the creation and operation of a defined area or service to designated property unless otherwise provided by contract.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.530 to 58.560 reserved for expansion]

SUBCHAPTER L. TAXATION ON THE AD VALOREM BASIS

§ 58.561. Assessment of District Property

The assessor and collector shall assess all taxable property in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.562. Law Governing Property Subject to Taxation

The property subject to taxation in the district shall be determined by and governed by the Property Tax Code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1979. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 58.563 to 58.584. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

The repealed sections, relating to rendition of property and board of equalization, were added by Acts 1977, 65th Leg., p. 1537, ch. 627, § 1.

§ 58.585. Permanent Finance Ledger

(a) The board shall provide a permanent finance ledger in which the assessor and collector shall be charged with the total assessment of property shown on the tax rolls.

(b) Credit shall be entered in the permanent finance ledger of all collections paid to the depository.

(c) The permanent finance ledger and the books and accounts of the assessor and collector shall be audited by the board semiannually on January 1 and July 1 of each year and at any other times ordered by the board.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§§ 58.586 to 58.600. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

For disposition of the subject matter of the repealed sections, see Disposition Table preceding the Tax Code.

§ 58.601. Audit

(a) The district under the contract may elect to require the county auditor to audit annually the collections and accounts of the county assessor and collector and furnish the district with a report of his finding.

(b) The district shall pay to the county the actual cost of the audit.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.602 to 58.630 reserved for expansion]

SUBCHAPTER M. TAXATION ON THE BENEFIT BASIS

§ 58.631. Method of Taxation for District under Contract with the United States

A district which is operated under contract with the United States may adopt the plan to levy and

collect taxes on the benefit basis instead of the ad valorem basis and determine taxes under the provisions of Sections 58.632-58.634 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.632. Assessment Record

When necessary, the board shall apportion and assess the benefits conferred on property subject to taxation in the district and shall make a record showing the amount and value of benefits to accrue on property in the district and the amount of taxes to be levied and collected on the property. No taxes assessed or adjudged against the property subject to taxation may be more than the benefit which accrues to the property from the organization, operation, and maintenance of the district and its improvements.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.633. Notice of Taxes

After the board makes the record, it shall mail to each property owner whose name appears in the record notice of the amount of taxes levied on his property and the date and place at which the property owner may appear and contest the correctness and equitableness of the tax.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.634. Decision after Hearing

After the hearing, the board shall determine whether or not the tax is equitable and shall sustain, reduce, or increase the tax to an amount which in the board's judgment is equitable. The decision of the board is final.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.635. Method of Taxation for District not under Contract with the United States

If a district which is not operating under contract with the United States adopts the benefit basis plan for taxation, the levy, assessment, equalization of property values, and collection of taxes shall be made in the manner provided in Sections 58.636-58.648 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.636. Commissioners of Appraisal

As soon as practicable after the approval of the engineer's report and the adoption of the plan for improvements to be constructed, the board shall appoint three disinterested commissioners of appraisal. The commissioners shall be freehold-

ers but not owners of land within the district which they represent.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.637. Compensation of Commissioners

On approval by the board, each commissioner is entitled to receive \$25 a day for each day he actually serves, plus all necessary expenses.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.638. Notice of Appointment and Meeting

Immediately after the commissioners of appraisal are appointed, the secretary of the board shall give written notice to each appointee of his appointment and of the time and place of the first meeting of the commissioners.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.639. First Meeting of Commissioners

(a) The commissioners shall meet at the time specified in the notice from the secretary or as soon after that time as possible.

(b) At the meeting the commissioners shall take and subscribe an oath to discharge faithfully and impartially their duties as commissioners and make a true report of the work which they perform. They shall then organize by electing one commissioner as chairman and one commissioner as vice-chairman.

(c) The secretary of the board or, in his absence, a person appointed by the board shall serve as secretary to the commissioners of appraisal and shall furnish to the commissioners any information and assistance which is necessary for the commissioners to perform their duties.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.640. Assistance for Commissioners

Within 30 days after the commissioners qualify and organize, they shall begin to perform their duties, and in the exercise of their duties they may obtain legal advice and information relative to their duties from the district's attorney and, if necessary, may require the presence of the district engineer or one of his assistants at any time and for as long as necessary to properly perform their duties.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.641. Viewing Land and Other Property and Improvements in District

The commissioners shall view the land in the district which will be affected by the district's reclamation plans and shall assess the amount of the benefits and damages that will accrue to the irriga-

ble land in the district from the construction of the improvement.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.642. Commissioners Report

(a) The commissioners shall prepare a report and file it with the secretary of the board. The report shall be signed by at least a majority of the commissioners.

(b) The report shall include:

- (1) the name of the owner of each tract of land which is subject to assessment;
- (2) a description of the property;
- (3) the amount of the benefits or damages assessed on each tract of land;
- (4) the time and place at which a hearing will be held on the report to hear objections; and
- (5) the number of days each commissioner served and the actual expenses incurred during his service as commissioner.

(c) The day set in the report for the hearing may not be later than 20 days after the report is filed.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.643. Notice of Hearing

(a) After the commissioners' report is filed, the secretary of the board shall publish notice of the hearing on the report at least once a week for two consecutive weeks in a newspaper published in each county in which part of the district is located. The secretary shall mail written notice of the hearing to each person whose property will be affected if his address is known.

(b) The notice shall state:

- (1) the time and place of the hearing;
- (2) that the commissioners' report has been filed;
- (3) that interested persons may examine the report and make objections to it; and
- (4) that the commissioners will meet at the time and place indicated to hear and act on objections to the report.

(c) On the day of the hearing, the secretary shall file in his office the original notice and his affidavit stating the manner of publication, the names of persons to whom notice was mailed, and the names of persons to whom notice was not mailed because the secretary by reasonable diligence could not ascertain their addresses. Copies of the notice and affidavit shall also be filed with the commissioners of appraisal and the clerk of the commissioners court.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.644. Hearing

(a) At or before the hearing on the commissioners' report, an owner of land that is affected by the

report or the reclamation plans may file exceptions to all or part of the report.

(b) At the hearing, the commissioners shall hear and make determinations on the objections submitted and may make necessary changes and modifications in the report for objections which are sustained.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.645. Witnesses at the Hearing

At the hearing, interested parties may appear in person or by attorney and are entitled, on demand, to have the chairman of the commissioners of appraisal issue process for witnesses. The commissioners shall have the same power as a court of record to enforce the attendance of witnesses.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.646. Costs of Hearing

The commissioners may adjudge and apportion the costs of the hearing in any manner they consider equitable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.647. Commissioners' Decree

(a) After the commissioners have made a final decision, they shall issue a decree confirming their report insofar as it remains unchanged and shall approve and confirm changes in the report.

(b) The final decree and judgment of the commissioners shall be entered in the minutes of the board, and certified copies shall be filed as a permanent record with the county clerk of each county in which part of the district is located and shall be notice to all persons of the contents and purpose of the decree.

(c) The findings of the commissioners which relate to benefits and damages to irrigable land in the district are final and conclusive.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.648. Effect of Final Judgment and Decree

The final judgment and decree of the commissioners shall form the basis for all taxation in the district. Taxes shall be apportioned and levied on each tract of irrigable land in the district in proportion to the net benefits to the land stated in the final judgment and decree.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.649. Fixing Tax as Equal Sum on Each Acre

At the election at which the plan of taxation is determined or at any other time before the bonds are issued, the voters of any district operating under the provisions of Article XVI, Section 59, of the

Texas Constitution, may vote on the proposition of whether or not benefits for tax purposes shall be fixed as an equal sum on each acre of land that is irrigated or to be irrigated by gravity flow from the canal system of the district. The benefit per acre shall be voted on as it is applied to land in the district that can be irrigated by gravity flow from the irrigation system, and also the benefit to land in the district that cannot be irrigated by gravity flow.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.650. Election

(a) If the board desires to submit the question of whether or not to adopt the method of assessing benefits provided in Section 58.649 of this code, it shall order an election to be held in the district and shall submit the proposition in the manner provided for other district elections.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "Uniform assessment of benefits of \$___ per acre on all irrigable land in the district."

(c) The board shall determine the amounts to fill the space in the proposition. The amount of charge per acre may be found by dividing the number of acres of land into the amount of debt to be incurred by the district in providing for irrigation.

(d) If a majority of the persons voting in the election vote in favor of the proposition, it shall be adopted.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.651. Setting Annual Value of Land Unnecessary

If the district adopts the uniform acreage valuation for taxation, the valuation shall be applied to all irrigable land in the district, and it is not necessary to annually fix the value of the land. It is also unnecessary for the board to appoint a commission to ascertain or fix the value of the improvement to particular land.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1979. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.652. Preparing Tax Rolls

(a) The board shall examine the tax rolls to determine if all property subject to taxation appears on the tax rolls. The board shall add to the tax roll any property which was left off and shall examine, correct, and certify the tax roll.

(b) Any property owner may protest to the board that his property has not been properly classified. The board shall consider the protest and enter its

findings in the minutes in the manner provided by law.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.653. Rendition of Property

Land which is taxed on the uniform acreage valuation shall be rendered for taxation as subject to irrigation. When land is rendered, the value need not be stated, and it is unnecessary for the person rendering the property to include the value of the land in an affidavit or for the assessor and collector to set a value on the land.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.654. Law Governing Administration of Benefit Tax Plan

In a district that levies taxes on a benefit basis, the rate of taxation and the assessment and collection of taxes shall be governed by the law relating to ad valorem taxes to the extent applicable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.655. Irrigating Nonirrigable Land

If land which is classified as nonirrigable is later irrigated by the district, before the owner of the land receives the water, he shall pay to the district an amount equal to the entire amount that would have been charged to the owner if the land had been originally classified as irrigable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.656 to 58.690 reserved for expansion]

SUBCHAPTER N. ADDING AND EXCLUDING TERRITORY AND CONSOLIDATING DISTRICTS

§ 58.691. Excluding Land from District

After a district is organized, preliminary surveys are completed, and plans adopted by the district for the construction of a plant and improvements, and before the board calls an election for the authorization of construction bonds, the board must exclude land or other property from the district under the provisions of Sections 58.692-58.701 of this code, if the exclusions are practicable, just, or desirable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.692. Hearing to Announce Proposed Exclusions and to Receive Petitions

Before the election to authorize construction bonds, the board shall give notice of a time and place of a hearing to announce its own conclusions relating to land or other property to be excluded

and to receive petitions for exclusion of land or other property.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.693. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 15 days and not more than 40 days before the day of the hearing.

(b) The notice shall advise all interested property owners of their right to present petitions for exclusions and to offer evidence in support of the petitions and their right to contest any proposed exclusion based on either a petition or the board's own conclusions and to offer evidence in support of the contest.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.694. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds the land to be excluded. A petition for exclusion of other property must describe the property to be excluded for identification.

(b) A petition for exclusion shall be filed with the district at least 10 days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds shall be considered.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.695. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain certain land or other property within the district's taxing power would be arbitrary, would be unnecessary to conserve the public welfare, would impair or destroy the value of the property desired to be excluded, and would constitute the arbitrary imposition of a confiscatory burden;

(2) to retain any given land or other property in the district and to extend to it, either presently or in the future, the benefits, service, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(3) the land desired to be excluded cannot be served with water or drained so as to make it useful for irrigation purposes, or otherwise benefited by the district's proposed improvements.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.696. Hearing Procedure

The board may adjourn the hearing from one day to another and until all persons desiring to be heard are heard. The board immediately shall specifically describe all property which it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.697. Order Excluding Land

After considering all engineering data and other evidence presented to it, the board shall determine whether the facts disclose the affirmative of the propositions stated in Subdivision (1) or (2) or, if appropriate, in Subdivision (3) of Section 58.695 of this code. If the affirmative exists, the board shall enter an order excluding all land or other property falling within the conditions defined by the respective subdivisions and shall redefine the boundaries of the district in the order to embrace all land not excluded.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.698. Suit to Review, Etc.

Any person owning an interest in land affected by the order may file a petition within 20 days after the effective date of the order to review, set aside, modify, or suspend the order.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.699. Venue of Suit

The venue in any action shall be in any district court which has jurisdiction in the county in which the district is located. If the district includes land in more than one county, the venue shall be in the district court having jurisdiction in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.700. Trial Procedure

(a) A suit to review, modify, suspend, or set aside the order of the board shall be a trial de novo as that term is understood in an appeal from a justice of the peace court to a county court. The trial shall be strictly de novo with no presumption of validity or reasonableness or presumption of any character in favor of the order.

(b) The decision shall be made on a preponderance of the evidence and facts found in the trial as in other civil cases, independently of any action taken by the board.

(c) The procedure for the trial and the determination of the orders and judgments to be entered shall be governed solely by the rules of law, evidence,

and procedure of the state courts according to the constitution, statutes, and rules of procedure for the trial of civil actions.

(d) The so-called "substantial evidence" rule enunciated by the courts for orders of other administrative or quasi-judicial agencies shall not apply in the trial.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.701. Appeal

A person may appeal from the judgment or order of a district court in a suit brought under the provisions of Sections 58.698-58.700 of this code to the court of civil appeals and supreme court as in other civil cases in which the district court has original jurisdiction. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.702. Exclusion of Nonagricultural and Nonirrigable Land from the District

After the district is organized, acquires facilities with which to function as an irrigation district, and votes, issues, and sells bonds for the purposes for which the district was organized, land within the district subject to taxation which is not agricultural land or cannot be irrigated in a practicable manner may be excluded from the district by complying with the provisions of Sections 58.703-58.713 of this code. The land may also be excluded pursuant to the provisions contained in either Chapter 119, Acts of the 47th Legislature, Regular Session, 1941, as amended, or Chapter 86, Acts of the 62nd Legislature, Regular Session, 1971,¹ in the same manner as if the district was a water control and improvement district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

¹ See Water Code Special Laws Table, arts. 7880-76c, 8280-3.2.

§ 58.703. Prerequisite to Application for Exclusion

The owner of land in the district which is not agricultural land or cannot be irrigated in a practicable manner may apply for its exclusion from the district if all taxes levied and assessed by the district on the land to be excluded have been fully paid, including all bond tax and flat water rate assessment.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.704. Substituting Land of Equal Acreage and Value

Land which can be irrigated in a practicable manner of at least equal acreage and equal value to the land being excluded must be added to the district

simultaneously with the exclusion of the nonagricultural or nonirrigable land.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.705. Securing Application to Substitute Land

The board may require an owner of land in the district who has applied for the exclusion of his nonagricultural or nonirrigable land from the district to procure an application of the owner of land adjoining the boundaries or the canals of the district, and capable of being irrigated in a practicable manner from the facilities of the district, for inclusion in the district of his land in an amount and value at least equal to the land which is to be excluded under the application of the owner of nonagricultural or nonirrigable land. Each application shall set forth the facts concerning the land to be excluded from and the land to be added to the district, including evidence of their reasonable market value.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.706. Application of Owner of New Land to be Substituted

The owner of the new land to be added shall submit an application setting forth that the owner of the new land assumes the payment of all taxes to be levied on his land by the district after the date the land is added to the district. The application also shall set forth an agreement by the owner of the new land that the land will be subject to future taxes for bond tax and flat rate and all other assessments levied and assessed by the district as though the land had been incorporated originally in the district. The application also shall contain an agreement by the owner of the new land that the land will be subject to the same liens and provisions as all other land in the district and subject to the statutes governing all other land in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.707. Consent of Outstanding Bondholders

(a) The board shall communicate the contents of the applications to exclude nonagricultural or nonirrigable land and to include an equal amount of irrigable land to the holders of outstanding bonds voted, issued, sold, and delivered by the district and payable from taxes levied on property in the district.

(b) If the consent in writing of 95 percent or more of the bondholders to the plan is filed with the board, the board may hold a hearing on the applications.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.708. Notice of Hearing on Applications

The board shall give notice of the hearing on the applications by publishing the time, place, and nature of the hearing one time in a newspaper published in a county in which all or part of the district is located. The newspaper must have been published regularly for more than 12 months preceding the date of the publication of the notice and must have circulation in the district. The notice shall be published not less than 10 days nor more than 20 days before the date of the hearing.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.709. Hearing Procedure

The board shall hear all interested parties and all evidence in connection with the applications.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.710. Board's Resolution to Substitute Land

If the board finds that all the conditions provided for the exclusion of land and inclusion of other land in the district exist, it may adopt and enter in its minutes a resolution to exclude land which is nonagricultural or nonirrigable in a practicable manner and include land which may be irrigated from the facilities of the district in a practicable manner.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.711. Liability of Excluded and Included Land

The land excluded from the district is free from any lien or liability created on the excluded land by reason of its having been included in the district. Land added to the district is subject to all laws, liens, and provisions governing the district and the land in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.712. Duty to Advise Commission

The board shall furnish the commission a detailed description of the land excluded and a detailed description of the land included within 30 days after the exclusion and inclusion of land under the provisions of Sections 58.702-58.711 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1981, 67th Leg., p. 961, ch. 367, § 1, eff. June 10, 1981.]

§ 58.713. Right to Serve New Land Included in District

The district has the same right to furnish water service to the included land that it previously had to furnish service to the excluded land. The mere inclusion of a larger total acreage than that excluded does not give the district the right to irrigate a larger total acreage or to appropriate a larger quantity or volume of public water for irrigation than

the district would have had the right to irrigate or to appropriate before the exclusion and inclusion of the land.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.714. Adding Land by Petition of Landowner

The owner of land may file with the board a petition requesting that the land described by metes and bounds in the petition be included in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.715. Petition Signed and Executed

The petition of the landowner to add his land to the district shall be signed and executed in the manner provided by law for the conveyance of real estate.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.716. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if it is considered to be to the advantage of the district and if the water supply, canals, and other improvements are sufficient to supply the added land without injuring land already in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.717. Recording Petition

A petition which is granted adding land to the district shall be filed for record and shall be recorded in the office of the county clerk of the county in which the land is located.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.718. Adding Certain Territory by Petition

Landowners of a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board signed by a majority of the landowners in the territory or by 50 landowners if the number of landowners is more than 50.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.719. Hearing on Petition

The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.720. Notice of Hearing

(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.721. Resolution to Add Territory

If the board finds on hearing the petition that the addition would be of benefit to the district and that the water supply, canals, and other improvements are sufficient to supply the added territory without injuring the land already in the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.722. Elections to Ratify Annexation of Land

(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.723. Notice and Procedure of Election

The notice of the election, the manner and the time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by the provisions of Subchapter E of this chapter.¹

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

¹ Section 58.221 et seq.

§ 58.724. Liability of Added Territory

The added territory shall bear its pro rata part of all indebtedness or taxes that may be owed, con-

tracted, or authorized by the district to which it is added.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.725. Liability of Land Added to a District Operating under Article XVI, Section 59, of the Texas Constitution

(a) If land is added to a district operating under Article XVI, Section 59, of the Texas Constitution, the order of the board adding the land to the district may contain an agreement that the added land will be taxed on the benefit basis instead of the ad valorem basis. The agreement may provide that the added land will be taxed on a uniform acreage basis or on the plan of a definite annual payment.

(b) The board, in its order adding land to the district, shall set the amount of the debts to be paid by the owner of the added land and levy annual taxes against the land to pay the debts. The taxes assessed by the board constitute a lien against the added land in the same manner and to the same extent as if the land had been a part of the district at the time the indebtedness was incurred or authorized by an election held for that purpose.

(c) The added land is a part of the district and is liable for debts subsequently incurred by the district in the same manner as other land in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.726. Consolidation of Districts

Two or more districts governed by the provisions of this chapter may consolidate into one district as provided by Sections 58.727-58.730 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.727. Elections to Approve Consolidation

(a) After the directors of each district have agreed on the terms and conditions of consolidation, they shall order an election in each district to determine whether the districts should be consolidated.

(b) The directors of each district shall order the election to be held on the same day in each district and shall give notice of the election for at least 20 days in the manner provided by law for other elections.

(c) The districts may be consolidated only if the electors in each district vote in favor of the consolidation.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.728. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district, except for the payment of debts created before consolidation, and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to wind up the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district until the next general election or name persons to serve as officers of the consolidated district until the next general election if all officers of the original districts agree to resign.

(d) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(e) The current board shall approve the bond of each new officer.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.729. Debts of Original Districts

After two or more districts are consolidated, the debts of the original districts are protected and are not impaired. These debts may be paid by taxes or assessments levied on the land in the original districts as if they had not consolidated or contributions from the consolidated district on terms stated in the consolidation agreement.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.730. Assessment and Collection of Taxes

After consolidation, the officers of the consolidated district shall assess and collect taxes on property in the original district to pay debts created by the original district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Sections 58.731 to 58.780 reserved for expansion]

SUBCHAPTER O. DISSOLUTION OF DISTRICT

§ 58.781. Dissolution of District Prior to Issuance of Bonds

(a) If the electors of a district reject the proposal to issue construction bonds by a constitutional or statutory majority vote, the board must dissolve the district and liquidate the affairs of the district as provided in Sections 58.781-58.792 of this code.

(b) Subject to the provisions of Subchapter G of Chapter 50 of this code,¹ if a district finds at any time before the authorization of construction bonds or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

(c) Subject to the provisions of Subchapter G of Chapter 50 of this code, if 20 percent of the qualified voters of a district petition the board for a hearing on a proposal to dissolve the district and deposit with the board an amount estimated to cover the actual cost of giving notice and holding the hearing, the board shall publish notice of the hearing within 10 days and shall hold the hearing within 40 days after the filing of the petition, as provided in Sections 58.782-58.785 of this code. If the finding is against the petition, the deposit shall be applied to pay the cost of giving notice and holding the hearing.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

¹ Section 50.251 et seq.

§ 58.782. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district. The notice must be posted at least 10 days before the hearing on the proposed dissolution of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.783. Hearing

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.784. Board's Order to Continue or Dissolve District

The board shall determine from the evidence whether the best interests of the persons, land, and property in the district will be promoted by prosecuting the district's plans or whether the best interests of the persons and property in the district will be served by dissolving the district, and the board shall enter the appropriate findings and order in the record.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.785. Judicial Review of Board's Order

The board's decree to continue or to dissolve the district shall be final and cannot be judicially reviewed except on the ground of fraud, palpable error, or gross abuse of discretion.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.786. Appointment of Trustee

(a) If the board orders the dissolution of the district, it shall appoint a director or some other competent person as trustee to close the affairs of the district as soon as practicable.

(b) The board shall determine the term of service and the amount of compensation for the trustee.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.787. Discharge of District's Obligations by Trustees

(a) The trustee shall reduce all assets and resources of the district to possession and money and apply them to discharge the outstanding obligations of the district, having regard to specific funds.

(b) If required, the board shall levy, assess, and collect sufficient additional taxes to pay all necessary expenses and outstanding obligations of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.788. Discharge of Trustee

The trustee shall be discharged when all obligations of the district are paid and the trustee's account is verified and settled.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.789. Final Order of Dissolution

After all obligations are paid and the trustee is discharged, the board shall enter its final order of dissolution and record the final order in the deed records of the county or counties in which the district is located.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.790. Water Rights of Dissolved District

Water rights held from the state shall revert to the state and may not be assigned by the district in anticipation of dissolution.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.791. Taxes in Excess of District's Obligations

(a) If taxes have been collected by the dissolved district in excess of the amount required to liquidate the obligations of the district, the excess shall be paid ratably to the county treasurer or treasurers of the county or counties in which the district was located.

(b) The commissioners courts shall credit the money received from the dissolved district to the interest and sinking fund for any outstanding county bonds. If the county has no outstanding bonds, the money may be applied as the commissioners court lawfully directs.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.792. Permanent Record of Dissolved District

All records, vouchers, and accounts of the district shall be delivered to the commissioners court of the county in which the district's principal office was located and shall be preserved as a permanent record.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.793. Dissolution of District for Failure to Complete Plant

Subject to the provisions of Subchapter G of Chapter 50 of this code,¹ if a district has not within 10 years from the date of its creation commenced and completed the construction of a plant and improvements to carry out the purposes of its creation in accordance with the plans adopted by the district, the board may enter a resolution in its minutes to dissolve the district under the provisions of Sections 58.794-58.828 of this code. After compliance with these provisions, a vote of the electors of the district, and the payment of its valid, enforceable indebtedness, the district may be dissolved.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

¹Section 50.251 et seq.

§ 58.794. Resolution to Dissolve District

The board shall find in its resolution to dissolve the district that the plans of the district are impracticable or that the purposes of the district should be abandoned and shall state the reasons for the finding.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.795. Statements of Indebtedness and Expenses

The board shall prepare or have prepared and shall approve a statement of all valid, enforceable indebtedness of the district and shall enter the statement in the minutes. The board shall prepare or have prepared an estimate of all expenses incurred or to be incurred in the dissolution of the district and in the collection of sufficient taxes to pay all valid, enforceable indebtedness of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.796. Election to Approve Dissolution of District and Issuance of Dissolution Bonds

The board shall enter an order calling an election to determine whether or not the district shall be dissolved and bonds issued to pay the district's indebtedness and estimated expenses.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.797. Maximum Amount, Interest Rate, and Maturity of Bonds

The maximum amount of bonds to be voted on and issued shall not be more than the total amount of the approved valid, enforceable indebtedness and the estimate of expenses, exclusive of the estimated cost of collection of taxes. The maximum amount of bonds, exclusive of interest and expenses of collection, to be issued for fees and expenses of dissolution of the district shall not be more than an amount equal to \$2 times the number of acres in the district. The bonds shall mature serially over a period of not more than seven years.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.798. Notice of Election

(a) The president and secretary of the board shall issue notice of the election, stating:

- (1) the findings of the board with reference to the dissolution of the district;
- (2) the amount of bonds to be issued;
- (3) the interest rate on the bonds; and
- (4) the time and place of the election.

(b) The notice also shall contain a statement of the estimates and the expenses incurred and to be incurred in the dissolution of the district and the collection of taxes for the payment of the bonds and shall state that the bonds will be payable by the levy of taxes on the taxable property in the district in proportion to the values of the property as provided in Section 58.804 of this code.

(c) The notice shall be published once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the day of the election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.799. Procedure for Holding Election

(a) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the district and issuance of dissolution bonds and the levy of taxes for the payment of the bonds."

(b) The election shall be conducted and returns made and canvassed according to the provisions in this chapter for construction bond elections.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.800. Issuance and Sale of Dissolution Bonds

(a) If a majority of the electors at the election vote in favor of the dissolution of the district and the issuance of bonds and the levy of taxes for the payment of the bonds, the board shall issue and sell

the bonds or any part of them. The bonds shall be known as "dissolution bonds."

(b) The board may deliver the dissolution bonds or any part of them in satisfaction of the valid, enforceable indebtedness of the district for which the bonds are issued, or in payment of expenses incurred or to be incurred in connection with the dissolution of the district, or in payment of services rendered or to be rendered to the district.

(c) The dissolution bonds shall be:

- (1) serially numbered, commencing with the first maturities;
- (2) issued in the name of the district;
- (3) signed by the president; and
- (4) attested by the secretary, with the seal of the district attached.

(d) The board shall determine the maturities of the bonds not to exceed seven years from their date, the denominations of the bonds, and the interest.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.801. Destroying Unsold Bonds

If a majority of the electors at the election vote in favor of the dissolution of the district, the board shall destroy all unsold bonds of the district and enter an order cancelling all unissued and unsold bonds authorized by the electors. After the destruction and the entry of the order, the bonds shall have no further force or effect.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.802. Board's Authority to Contract

The board may contract with trustees, engineers, attorneys, and others it considers necessary or desirable to properly liquidate and wind up the affairs of the district. The board also may assume obligations made by others for the benefit of the district, or from which the district benefited, which in its judgment may be fair and equitable.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.803. Tax to Pay Dissolution Bonds

The order issuing the dissolution bonds shall provide that the principal of and interest on the bonds shall be payable from the proceeds of a tax to be levied on the taxable property located in the district. The tax shall be in an amount sufficient for the payment of the principal and interest.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.804. Determining Amount of Tax

(a) The value of all of the taxable property of the district shall be taken at the assessed value, and an amount equal to the total of the principal and all interest to maturity on the bonds voted plus the estimated cost of collection of taxes shall be as-

essed against the taxable property of the district on the ad valorem basis.

(b) The tax against the taxable property of each owner shall be that portion of the total principal and interest of the dissolution bonds and costs of collection which the assessed value of the taxable property of the owner bears to the total assessed values in the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.805. Payment of Tax

The amount of the tax on the taxable property of each owner shall be payable in equal annual installments, during the period in which the bonds mature, on dates specified in the order issuing the bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.806. Advance Payment of Taxes in Cash

The order issuing the bonds shall provide that a property owner may secure release of the entire amount of his taxable property as assessed on the rolls from the tax levied for the dissolution bonds by the payment in cash of the full amount of tax.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.807. Computing Amount of Advance Cash Payment

(a) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment of taxes must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installment of taxes.

(b) In order to compute the full amount of an advance cash payment, the interest rate on the bonds shall be applied on an annual basis to each unpaid past-due installment of taxes for the number of years the installment has been past due, and 10 percent of the face amount of each installment that is past due shall be added as a penalty. The total of the items computed shall be added to the unpaid installments.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.808. Surrender of Bonds in Payment of Taxes

The order issuing the bonds shall provide that any of the bonds with all unmatured interest and all appurtenant coupons may be surrendered at any time in payment of all unpaid installments of the taxes. The amount of taxes found to be due by the method provided in Section 58.809 of this code may be discharged by the surrender of the proper amount of dissolution bonds, together with all un-

paid appurtenant interest coupons at the face value of the bonds and coupons.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.809. Computing Amount of Payment Made by Surrendering Bonds

(a) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied on an annual basis to each unpaid installment of taxes for the number of years the installment must run before being due. The total of the items computed shall be deducted from the face amount of the unpaid installments of taxes.

(b) In order to compute payment by surrendering bonds, the interest rate on the bonds shall be applied to each unpaid installment of taxes for the number of years the installment has been past due and 10 percent of the face amount of each installment of taxes that is past due shall be added as penalty. The total of the items computed shall be added to the face amount of each unpaid installment of taxes.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.810. Use by Trustee of Advance Payments of Tax

The order issuing the bonds shall provide that the bonds shall be called and redeemed by the trustee in the inverse order of their maturity and in the inverse order of their serial numbers. They shall be paid out of any funds received in advance payment of taxes that are not required for meeting any past-due and unpaid principal and interest or the next maturing installment of principal and interest.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.811. Approval and Registration of Dissolution Bonds

After the dissolution bonds are issued by the board and before they are put in circulation, the bonds, at the option of the board, shall either be submitted to and approved by the attorney general and registered by the comptroller as provided in Sections 58.446-58.448 of this code or be validated by suit as provided in Sections 58.453-58.461 of this code. The provisions of these sections of this code which are not inconsistent with the provisions of this subchapter are applicable to the dissolution bonds provided for in this subchapter.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.812. Preparing Tax Roll

Before the issuance and delivery of the bonds, a tax roll shall be prepared in the manner provided by the Property Tax Code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.813. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 58.814. Notice of Meeting as Board of Equalization

(a) After the tax roll has been filed for at least five days, the board shall publish a notice once a week for two consecutive weeks in a newspaper with general circulation in the county or counties in which any part of the district is located. The first publication shall be at least 14 days before the meeting of the board of equalization.

(b) The notice shall call attention to the filing of the tax roll and the name and place or places where the tax roll is filed and available for inspection, and shall notify all interested persons of the time and place of the meeting of the board for the purpose of acting as a board of equalization to examine, correct, equalize, appraise, and approve the valuations of the taxable property of the district and improvements on taxable property as set forth in the tax roll.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.815. Meeting as Board of Equalization

At the time and place stated in the notice, the board shall meet and examine the tax roll. The board shall equalize as nearly as possible the value of all property for taxation and fix the value of all property for taxation.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.816. Authority and Procedure as Board of Equalization

(a) Any interested person may appear at the meeting and offer evidence for or against any matter being considered by the board of equalization. The board may send for persons and papers, and may administer oaths to persons who testify before the board, and may ascertain the full true value of all property subject to taxation.

(b) The board may lower or raise the valuation of all property listed on the tax roll and place property on the roll which did not appear on it. The board shall correct any errors of assessment and equalize the value of property appearing on the roll.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.817. Approving Tax Roll

After the board of equalization finally fixes the valuation of all taxable property in the district and the tax roll of the district is finally prepared, the board shall meet and consider the tax roll, make all

necessary corrections in the tax roll, and endorse its approval on the roll.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.818. Approved Tax Roll not Subject to Revision

The action of the board in finally approving the tax roll is final and is not subject to revision by the board or any other tribunal.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.819. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 58.820. Collection of Dissolution Taxes

The county assessor and collector shall collect the taxes shown on the tax roll on the land located in the county for which he is assessor and collector.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 58.821. Appointment of Trustee

(a) Before the issuance and delivery of dissolution bonds, the board shall appoint a trustee of the funds to be collected from the taxes. The trustee shall be an individual or a bank or trust company in the county or one of the counties in which the district is located.

(b) The board may determine the powers, rights, duties, liabilities, and other matters relating to the trusteeship and the appointment of successor trustees which the board considers proper to effectuate the purpose of the trusteeship.

(c) The board may determine the bond to be given by the trustee and the amount to be paid to the trustee from the funds collected from the taxes.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.822. Authority of the Trustee

The trustee shall receive from the assessor and collector all proceeds from the assessments less the assessor and collector's charges and shall be the paying agent of the district for the bonds. The bonds shall be payable at the place of business of the trustee. The trustee shall be authorized by the order providing for the issuance of the bonds to institute suits in the name of the district for the use and benefit of the holders of the bonds and to apply all sums of money recovered in the suits to the payment of the bonds.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§§ 58.823, 58.824. Repealed by acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 58.825. Default in Payment of Tax Installment

(a) Default in the payment of an installment of taxes levied for the payment of dissolution bonds for 60 days after the installment becomes due and payable as provided by the board shall, at the option of the board or the trustee, immediately mature the remaining installments and cause the entire amount of the taxes to immediately become due and payable.

(b) The trustee shall bring suit for the collection of the entire amount of the taxes and for the foreclosure of the lien securing the payment of the taxes.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.826. Penalty and Attorney's Fee

(a) A penalty of 10 percent of the unpaid amount of taxes shall accrue immediately on default of payment of taxes after the 60 days.

(b) An attorney's fee of 10 percent of the unpaid amount of the taxes is due and payable immediately on institution of suit for collection and foreclosure.

(c) The penalty and attorney's fee shall be recovered in the suit and shall constitute an addition to the taxes and shall be secured by the tax lien.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.827. Discharge of Lien

(a) On the final payment of the taxes, either the assessor and collector or the trustee shall issue a certificate certifying that the taxes have been fully satisfied and the lien is released.

(b) The execution and acknowledgment of the certificate and the recording of the certificate in the deed records of the county in which the property is located shall be full and conclusive evidence of the discharge of the taxes and liens.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.828. District Considered Dissolved

(a) On the issuance and sale or delivery of the dissolution bonds and the appointment and qualification of the trustee, the secretary shall deposit all available existing records of the district in the office of the county clerk of the county or one of the counties in which the district is located.

(b) The district immediately is considered dissolved for all purposes, except that the taxes levied against the taxable property may be enforced in the name of the district on behalf of the bondholders by

the trustee or his successors. The surviving board may meet from time to time until the dissolution bonds are paid and discharged and may delegate its powers and give instructions to the trustee or his successors as the board sees fit and circumstances warrant. After the payment of all dissolution bonds, interest, and costs of collection the board shall be dissolved.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.829. Dissolution of District in Counties of Less Than 11,000 Population

Subject to the provisions of Sections 50.251-50.256 of this code, a district located entirely in a county having a population of less than 11,000, according to the last preceding federal census, may be abolished by a majority vote of those entitled to vote and voting at an election held for the purpose of determining whether or not the district should be dissolved.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.830. Petition for Dissolution of District

A petition for the dissolution of the district shall be filed with the board and shall state the name of the district and the purpose for which the election is requested. The petition may refer to the order establishing the district for boundaries, limits, and area of the district.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.831. Signatures on Petition

A petition for dissolution of the district may be signed and filed in two or more copies. The petition shall be signed by a majority in number of the property owners with land in the district and the property owners of a majority in value of the land in the district, as shown by the tax rolls of the district, or 50 landowners if the number of landowners in the district is more than 50.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.832. Procedure for Holding Election

(a) An election to determine whether or not the district shall be dissolved shall be held in accordance with the provisions of Subchapter E of this chapter.

(b) The ballots for the election shall be printed to provide for voting for or against the proposition: "The dissolution of district."

(c) The returns of the election shall be canvassed and the result declared by the board. The board shall enter an order in its minutes declaring the result of the election, which order shall be made and entered in accordance with Section 58.034 of this code. The order shall be filed in the office of the

county clerk and recorded in the deed records of the county as provided in Section 58.034 of this code.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.833. Election in District Including City, Town, or Municipal Corporation

In an election to dissolve a district in which a city, town, or municipal corporation is located, the city, town, or municipal corporation shall be a separate voting precinct, and the ballots cast in the city, town, or municipal corporation shall be counted and canvassed to show the result of the election there. If the city, town, or municipal corporation votes against the dissolution of the district and the balance of the district votes for the dissolution of the district, the district shall be dissolved.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.834. Subsequent Election

If the proposition to dissolve the district fails to carry at the election held for that purpose, no other election for the same purpose shall be held within one year after the date of the election.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.835. District Dissolved

If a majority of those voting at the election vote in favor of dissolving the district, the district shall be dissolved and shall have no further authority after the election, except that any debts incurred shall be paid and the organization shall be maintained until all the debts are paid.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

§ 58.836. Taxes to Pay Indebtedness after Dissolution

If a district has outstanding bonds or other indebtedness maturing beyond the current year in which the dissolution occurs, the commissioner court of the county in which the district is located shall levy and have collected, as county taxes are assessed and collected, sufficient taxes on all taxable property in the district to pay the principal of and interest on the bonds and other indebtedness when due.

[Acts 1977, 65th Leg., p. 1537, ch. 627, § 1, eff. Aug. 29, 1977.]

[Chapter 59 reserved for expansion]

**CHAPTER 60. NAVIGATION
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PROVISIONS**

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SUBCHAPTER A. GENERAL PROVISIONS

§ 60.001. Definitions

In this chapter:

- (1) "District" means a navigation district organized under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the navigation and canal commission.

[Acts 1971, 62nd Leg., p. 566, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.002 to 60.010 reserved for expansion]

SUBCHAPTER B. RETIREMENT, DISABILITY, AND DEATH COMPENSATION FUND

§ 60.011. Creation of Retirement, Disability, and Death Compensation Fund

(a) The commission of any district created under this code or by special law may provide for and administer a retirement, disability, and death compensation fund for district officers and employees and may adopt plans to effectuate this purpose.

(b) The plans may include forms of insurance or annuities, or a combination of both, which the commission considers advisable.

(c) After notice to employees and a hearing, the commission may change the plan or any rule or regulation.

[Acts 1971, 62nd Leg., p. 566, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.012. Investment of Funds

(a) Money in the retirement, disability, and death compensation fund shall be invested as provided in Subsections (b) and (c) of this section, and the commission may change from one method of investment to the other or to any combination of the two.

(b) The money in the retirement, disability, and death compensation fund may be invested in bonds of:

- (1) the United States;
- (2) the State of Texas;
- (3) county, city, or other governmental subdivisions of the State of Texas; or
- (4) any agency of the United States, if payment of principal and interest is guaranteed by the United States.

(c) The money in the retirement, disability, and death compensation fund also may be invested in:

- (1) life insurance policies;

- (2) endowment or annuity contracts; or
- (3) interest-bearing certificates of legal reserve life insurance companies authorized to write such contracts in Texas.

(d) If the method of investment authorized under Subsection (b) of this section is followed, the commission shall keep a sufficient amount of money in the fund to meet amounts likely to become due each year.

[Acts 1971, 62nd Leg., p. 566, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.013. Eligibility for Other Pension Funds

The recipients or beneficiaries of a fund created under Section 60.011 of this code shall not be eligible for any other pension retirement funds or direct aid from the State of Texas unless the fund provided for in Section 60.011 of this code is released to the State of Texas as a condition precedent to receiving the other pension aid.

[Acts 1971, 62nd Leg., p. 567, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.014. Hospitalization and Medical Benefits

(a) The commission may include hospitalization and medical benefits for officers and employees as part of the compensation paid to the officers and employees.

(b) The commission may provide for the benefits in Subsection (a) of this section by plan, rule, or regulation, and may change any plan, rule, or regulation from time to time.

[Acts 1971, 62nd Leg., p. 567, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.015 to 60.030 reserved for expansion]

SUBCHAPTER C. ADDITIONAL POWERS AND DUTIES OF CERTAIN DISTRICTS

§ 60.031. Application of Subchapter

The provisions of this subchapter shall apply to any district not participating with the United States in a navigation project.

[Acts 1971, 62nd Leg., p. 567, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.032. Authority to Construct Improvements

The district may construct out of any of its funds, except interest and sinking funds, turning, storage, or yacht basins, harbors, or any facilities which may, in the judgment of the commission, be necessary or useful in the development and utilization of a waterway project for navigation purposes or in aid of navigation purposes. The district may own or lease dredges and other equipment for the construction or maintenance of those projects.

[Acts 1971, 62nd Leg., p. 567, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.033. Use of Equipment

(a) This subchapter does not authorize a district to borrow or receive money or to levy taxes for the purpose of building tugs, barges, scows, dredges, pile drivers, or other floating equipment for use on the water of the United States other than water coming under the jurisdiction of the district or water necessarily adjunctive to the use of the district, as set forth in Section 60.031 of this code.

(b) Dredges or other equipment, whether owned or leased, shall be confined to use on water under control of the district or a necessary adjunctive part of the district and may not be used in any work or service on any state or federal waterway which is not a necessary adjunctive part of the district.

[Acts 1971, 62nd Leg., p. 567, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.034. Oil, Gas, and Mineral Leases

The commission may lease for oil, gas, and minerals rights-of-way, spoil grounds, spoil basins, or any other land owned by a navigation district if it does not interfere with use of or obstruct any natural or artificial waterway of the district used for navigation purposes.

[Acts 1971, 62nd Leg., p. 567, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.035. Notice of Oil, Gas, and Mineral Lease

(a) Before a lease may be executed by the commission under Section 60.034 of this code, the commission shall have a notice requesting bids on the lease published in a newspaper of general circulation in the district. The notice shall be published at least once a week for two consecutive weeks before the final date for the receipt of bids.

(b) The notice shall include:

- (1) the approximate amount of land offered;
- (2) the general location of the land;
- (3) the time and place for receipt of bids;
- (4) the place where specifications may be obtained;
- (5) information concerning security for the bids; and
- (6) a statement that the commission reserves the right to reject any or all bids.

[Acts 1971, 62nd Leg., p. 568, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.036. Security for Bid on Oil, Gas, or Mineral Leases

Each bid submitted shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the first rental payment and bonus offered for the lease over and above the royalty and

shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission.

[Acts 1971, 62nd Leg., p. 568, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.037. Award and Execution of Oil, Gas, and Mineral Leases

(a) The commission may lease all or any part of land advertised for lease under Section 60.035 of this code.

(b) The lease shall be awarded to the highest and best bidder and shall reserve at least one-eighth royalty of all gas, oil, or minerals in or produced on the land. The lease shall contain other provisions reasonably necessary to protect the interests of the district and may not be less favorable to the district than customary commercial leases in the locality.

(c) The chairman and secretary of the commission shall execute the lease under an order, entered in the minutes of the commission, which shall include the consideration for the lease.

[Acts 1971, 62nd Leg., p. 568, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.038. Sale or Lease of Land

(a) A district may sell or lease all or any part of land owned by it, whether the land is acquired by gift or purchase, in settlement of any litigation, controversy, or claim in behalf of the district, or in any other manner, except that lands or flats heretofore purchased from the State of Texas under Article 8225, Revised Civil Statutes of Texas, 1925,¹ or granted by the State of Texas in any general or special act, may be sold only to the State of Texas or exchanged with the State of Texas for other lands or exchanged for adjacent littoral land as authorized by Section 61.117 of this code.

(b) Land which is sold or leased shall be declared surplus land and shall not be needed for use by the district in connection with the development of a navigation project.

(c) Sale or lease of land shall be made as provided by Sections 60.039-60.042 of this code.

[Acts 1971, 62nd Leg., p. 568, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 556, ch. 237, § 3, eff. June 11, 1973; Acts 1975, 64th Leg., p. 801, ch. 310, § 1, eff. May 27, 1975.]

¹ Repealed; see, now, §§ 61.115 to 61.117.

Sections 4 and 5 of the 1975 amendatory act provided:

"Sec. 4. Venue for any action arising under this Act brought by or against the State of Texas, or involving the state's claim to title to land conveyed or sought to be conveyed under this Act, shall lie in a district court of Travis County, Texas.

"Sec. 5. Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

§ 60.039. Surface Lease for Not More Than Five Years

The commission may lease the surface of land for not more than five years by the entry of an order on

the minutes of the commission and the execution of a lease in the manner provided by the original order. The lease may not be extended beyond the five-year period by renewal, extension, or otherwise.

[Acts 1971, 62nd Leg., p. 569, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.040. Publication of Notice for Sales and Leases in Excess of Five Years

Before making a sale or lease of land for more than five years, the commission shall publish a notice in the manner provided in Section 60.035 of this subchapter.

[Acts 1971, 62nd Leg., p. 569, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.041. Security for Bids on Land to be Sold or Leased for More Than Five Years

Each bid submitted on land to be sold or leased for more than five years shall be accompanied by a certified check, cashier's check, or bidder's bond with a responsible corporate surety authorized to do business in Texas. The check or bond shall be in an amount equal to the bid for the land or for the first rental payment under the lease and shall guarantee that the bidder will perform the terms of his bid if it is accepted by the commission.

[Acts 1971, 62nd Leg., p. 569, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.042. Award and Execution of Deed or Lease in Excess of Five Years

(a) After notice is published under Section 60.040 of this code, the commission may sell or lease all or any part of the land to the highest and best bidder for an amount which is not less than the reasonable market value in the locality at the time and place of the sale or lease.

(b) The commission shall enter an order in its minutes confirming the sale or lease. The order shall include the terms of the sale or lease and the consideration and shall provide that the commission will execute a deed or lease as soon as the successful bidder complies with the terms of his bid.

[Acts 1971, 62nd Leg., p. 569, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.043. Power Over Waterways

(a) The commission shall have absolute control over channels, or other waterways within the corporate limits of the district and turning basins, yacht basins, and storage basins. The commission may prevent or remove any obstructions of these facilities and fix proper fees, charges, and tolls for their use.

(b) The fees, charges, and tolls charged by the district shall be in addition to charges made, as provided by law, for any facilities used by any ship, boat, vessel, or any other character of craft used for water transportation for commercial purposes. The term commercial purposes shall be limited to any

common carrier, contract carrier, or public or private carrier that shall transport or have transported persons, commodities, goods, wares, or merchandise for hire or compensation.

[Acts 1971, 62nd Leg., p. 569, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.044. Law Governing Commission

The commission of any district operating under this subchapter shall be governed by the provisions of Sections 63.087-63.088 and 63.090-63.094 of this code.

[Acts 1971, 62nd Leg., p. 570, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.045 to 60.070 reserved for expansion]

SUBCHAPTER D. REGULATORY POWERS

§ 60.071. General Rule-Making Authority

The commission of a district which owns, operates, and maintains wharves, docks, piers, sheds, warehouses, and other similar terminal facilities which are not located inside the boundaries of any incorporated city, town, or village may pass, amend, and repeal any ordinance, rule, or police regulation which is not contrary to the constitution or laws of this state and which is necessary to protect the property and to promote the health, safety, and general welfare of persons using the property.

[Acts 1971, 62nd Leg., p. 570, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.072. Specific Powers of Districts

To accomplish the purposes stated in Section 60.071 of this code, the commission may exercise the following powers:

- (1) control the operation of all types of vehicles using the roads maintained by the district, other than roads dedicated to public use by formal dedication, and prescribe the speed, lighting, and other requirements of these vehicles;
- (2) prohibit loitering on docks, wharves, piers, warehouses, sheds, or other properties of the district;
- (3) control the operation of all types of vessels using harbors, turning basins, basins, or navigable channels of the district and prescribe the speed, lighting, and other requirements of these vessels;
- (4) prohibit smoking and the use of flares, open fires, and inflammable, highly combustible, or explosive substances and materials on docks, wharves, piers, warehouses, sheds, and other properties of the district, or on those parts of the properties and at those times or during those periods as may, in the judgment of the commission, be determined to be dangerous to any of the property or inimical to the safety or general welfare of persons using the property or parts of it;
- (5) prevent on any of the property all trespasses, breaches of the peace and good order, assaults

and batteries, fighting, quarrels, use of abusive, profane, or insulting language, disorderly conduct, and misdemeanor theft and punish offenders;

(6) suppress and prevent any riot, affray, disturbance, or disorderly assembly on any of the property; and

(7) license and regulate or suppress and prevent hawkers and peddlers utilizing or attempting to utilize the roads and other property of the district.

[Acts 1971, 62nd Leg., p. 570, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.073. Enforcement

The commission may provide by ordinance for the enforcement of the provisions of this subchapter and of any ordinance, rule, or regulation made under this subchapter.

[Acts 1971, 62nd Leg., p. 570, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.074. Style of Ordinances

The style of an ordinance enacted by the commission shall be: "Be it ordained by the navigation and canal commissioners of the _____" (inserting the name of the navigation district).

[Acts 1971, 62nd Leg., p. 571, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.075. Publication of Ordinance, Rule, or Regulation; Proof of Publication

(a) Each ordinance, rule, or regulation enacted by the commission under this subchapter which imposes a fine or other penalty shall be published in every issue of a newspaper of general circulation published in the district for the 10-day period immediately following its adoption. If the only newspaper published in the district is published weekly, the publication shall be made in two consecutive issues of the newspaper.

(b) Proof of publication under Subsection (a) of this section shall be made by the printer or publisher of the newspaper by affidavit filed with the secretary of the commission and shall be prima facie evidence of publication and adoption of the ordinance, rule, or regulation in all courts of this state.

(c) In lieu of the publication of the entire ordinance, rule, or regulation, the commission may provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance, rule, or regulation and the penalty for violation.

(d) An ordinance, rule, or regulation shall take effect and be in force from and after publication under Subsection (a) of this section unless otherwise provided.

[Acts 1971, 62nd Leg., p. 571, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.076. Conflict With Law

No ordinance, rule or regulation adopted by a district under this subchapter may conflict with any law, statute, rule, or regulation of this state.

[Acts 1971, 62nd Leg., p. 571, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.077. Authority of Peace Officers

In prosecutions involving the enforcement of the provisions of this subchapter or the enforcement of any ordinance, rule, or regulation of the district, any sheriff, constable, or other duly constituted peace officer of the State of Texas or any peace officer employed or appointed by the commission may make arrests, serve criminal warrants, subpoenas, or writs, and perform any other service or duty which may be performed by any sheriff, constable, or other duly constituted peace officer of the State of Texas in enforcing other laws of this state.

[Acts 1971, 62nd Leg., p. 571, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.078. Penalties

A violation of this subchapter or of an ordinance, rule, or regulation adopted by a district under this subchapter is a misdemeanor, and the commission may provide for the punishment of the misdemeanor by a fine of not more than \$200 for each offense or violation.

[Acts 1971, 62nd Leg., p. 571, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.079. Jurisdiction of Violations

Any justice court in the justice precinct in which an offense under this subchapter is alleged to have been committed or in any county court at law in the county where an offense is alleged to have been committed, which county court at law has concurrent original jurisdiction with the justice court, shall have original jurisdiction of any misdemeanor or violation under this subchapter and original jurisdiction of any violation of an ordinance, rule, or regulation made under this subchapter.

[Acts 1971, 62nd Leg., p. 571, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.080 to 60.100 reserved for expansion]

SUBCHAPTER E. POWERS OF DISTRICTS FOR IMPROVEMENT OF PORT FACILITIES

§ 60.101. Acquisition and Maintenance of Port Facilities

(a) Any district may acquire land or interests in land by purchase, lease, or otherwise, may convey the land or interest in the land by lease, installment sale, or otherwise, and may purchase, construct, enlarge, extend, repair, maintain, operate, develop, sell by installment sale, or otherwise, and lease as lessor or as lessee:

- (1) wharves and docks;
- (2) warehouses, grain elevators, other storage facilities, and bunkering facilities;
- (3) port-related railroads and bridges;
- (4) floating plants and facilities;
- (5) lightering, cargo-handling, and towing facilities;
- (6) everything appurtenant to these facilities; and
- (7) all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in aid of navigation and navigation-related commerce in the ports and on the waterways.

(b) To the extent that the district incurs indebtedness (bonded or otherwise) for purposes of financing the above facilities which in turn are sold by installment sale or otherwise, said indebtedness, principal and interest, may be paid only from the loan (or bond sale) proceeds and from revenues generated from the project financed by the indebtedness, and security for payment of the principal of and interest on said indebtedness shall be limited to a pledge of the project's revenues and the project's facilities including enlargements and additions thereafter made.

[Acts 1971, 62nd Leg., p. 572, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 411, ch. 84, § 1, eff. May 10, 1983.]

§ 60.102. Utility Relocation

(a) If a district in the exercise of the powers conferred by this subchapter or in the exercise of the power of eminent domain or the police power requires the relocating, raising, lowering, rerouting, or changing in grade, or altering in the construction of any railroad, electric transmission line, telegraph or telephone line, conduit, pole, properties or facilities, or pipeline, the relocating, raising, lowering, rerouting, changing in grade, or altering of construction shall be done at the sole expense of the district.

(b) "Sole expense" means the actual cost of the relocation, raising, lowering, rerouting, change in grade, or alteration of construction in providing comparable replacement without enhancement of the facilities, after deducting the net salvage value derived from the old facility.

[Acts 1971, 62nd Leg., p. 572, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.103. Prescribing Fees and Charges

The commission shall prescribe fees and charges to be collected for the use of the land, improvements, and facilities of the district and for the use of any land, improvements, or facilities acquired under the provisions of this subchapter. The fees and charges shall be reasonable, equitable, and suf-

ficient to produce revenue adequate to pay the expenses mentioned in Section 60.105 of this code. [Acts 1971, 62nd Leg., p. 572, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.104. Power to Borrow Money

(a) The commission, for the purposes stated in Subsection (b) of this section, may borrow money from the United States or from any other source and may evidence the debt by issuing notes, warrants, certificates of indebtedness, negotiable bonds, or other forms of obligation of the district payable solely out of the revenue to be derived from land, improvements, and facilities.

(b) The commission may use the money to acquire land and waterways and all improvements on or to the land and waterways and to acquire, purchase, construct, enlarge, extend, repair, maintain, operate, or develop wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering and towing facilities, everything appurtenant to them, and all other facilities or aids incidental to or useful in the operation or development of the district's ports and waterways or in the aid of navigation and commerce in the ports and waterways.

(c) Obligations issued under this subchapter shall not constitute an indebtedness or pledge of credit of the district and may not be paid in whole or in part from any funds raised or to be raised by taxation. Each obligation shall contain a recital to this effect.

[Acts 1971, 62nd Leg., p. 573, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.105. Expenses to be Paid From Current Revenues

(a) The commission shall pay from revenue raised under Section 60.103 of this code:

- (1) all expenses necessary to the operation and maintenance of the improvements and facilities, including the cost of the acquisition of properties and materials necessary to maintain the improvements and facilities in good condition and operate them efficiently, the wages and salaries paid to the employees of the district, and other expenses necessary to the efficient operation of the improvements and facilities;
- (2) the annual or semiannual interest on any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities; and
- (3) the amount required to be paid annually into the sinking fund for the payment of any obligations issued under this subchapter and payable out of the revenue of the improvements and facilities.

(b) No expenses other than those authorized by Subsection (a) of this section may be paid from the revenue of the improvements and facilities as long as the principal and interest on any obligations issued under this subchapter remain outstanding

and unpaid. Any revenue received in excess of that required for the purposes stated in Subsection (a) of this section may be used by the commission to pay the cost of improvements and replacements which are not listed and may establish a depreciation fund. [Acts 1971, 62nd Leg., p. 573, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.106. Pledge of Revenue for Payment of Obligations

(a) In proceedings to authorize the issuance of obligations under this subchapter, the district may make the obligations payable from and secured by the pledge of all or part of the revenue derived from the ownership or operation of the land, improvements, facilities, or other properties of the district, exclusive of revenue derived from taxation or assessments, or payable from and secured by the pledge of only revenue which may be derived from the ownership or operation of the land, improvements, facilities, or properties acquired with the proceeds of the sale of the obligations.

(b) The obligations may be issued in more than one series and at any time at which they may be required for carrying out the purposes of the district.

(c) Any pledge of revenue may reserve the right under conditions, specified in the pledge, to issue additional obligations which will be on a parity with, senior to, or subordinate to the obligations then being issued.

[Acts 1971, 62nd Leg., p. 573, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.107. Mortgage as Additional Security

(a) As additional security for the payment of any obligations issued under this subchapter, the commission may execute in favor of the holders of the obligations an indenture, mortgaging and encumbering the improvements, facilities, and properties acquired with the proceeds of the sale of the obligations. The commission may provide in the indenture for a grant to any purchaser, at a foreclosure sale under the indenture, a franchise to operate the improvements, facilities, and properties for a term of not more than 50 years from the date of purchase, subject to all regulatory laws.

(b) The indenture may contain the terms and provisions the commission considers proper and shall be enforceable in the manner provided by the laws of this state for the enforcement of other mortgages and encumbrances.

(c) Under any sale ordered pursuant to the provisions of an indenture, the purchaser and his successors or assigns shall be vested with a permit and franchise to maintain and operate the improvements, facilities, and properties purchased at the sale and shall have the same powers and privileges as could previously have been exercised by the district in the operation of the improvements, facilities, and properties. The purchaser or his succes-

sors and assigns may remove all or part of the improvements, facilities, and properties for diversion to other purposes.

(d) Any laws of this state relating to the granting of franchises are not applicable to either the granting of any franchise or authorizing or executing of any mortgage or encumbrance entered into pursuant to the provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 574, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.108. Issuance of Obligations

(a) The commission may provide that obligations issued under this subchapter are payable annually or semiannually and may issue the obligations in any denominations and may have them mature serially or at one time not more than 40 years from their date.

(b) The obligations shall be signed by the chairman and secretary of the commission, and the interest coupons attached to the obligations may be executed with the facsimile signatures of these officers. The obligations shall be valid and sufficient for all purposes even though the officers whose signatures are on the obligations or coupons cease to be officers before delivery to the purchaser.

(c) Any obligations issued under this subchapter shall be in registered or coupon form, and if the obligations are in coupon form, they may be registered with relation to principal only or with relation to both principal and interest.

(d) The commission may sell the obligations in the manner and at the time which it considers expedient and necessary to the interests of the district.

(e) The commission may make principal and interest on the obligations payable at any place or places inside or outside the State of Texas and may make the obligations redeemable before maturity at the premium determined by the commission.

(f) Each issue of obligations authorized under this subchapter shall constitute a separate series which shall be appropriately designated. These obligations constitute negotiable instruments within the meaning of the negotiable instruments law.

[Act 1971, 62nd Leg., p. 574, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.109. Sinking Fund

(a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide for the creation of a sinking fund which shall include sums fully sufficient to pay principal of and interest on the obligations. Money deposited in the sinking fund shall be taken from revenue pledged for the payment of the obligations and shall be deposited in the fund as the revenue is collected.

(b) The money in the sinking fund shall be applied solely to the payment of interest on the obligations for the payment of which the fund is created and

for the retirement of the obligations at or before maturity in the manner provided by this subchapter.

(c) The commission, at the time obligations are authorized under this subchapter, may provide that all money in the sinking fund which is in excess of the amount required for the payment of the principal of and interest on the outstanding obligations, for a period of time it may determine, shall be spent once each year pursuant to the commission's orders for the purchase of obligations, if any can be purchased at a price the commission finds reasonable, for the account of which the sinking fund has been accumulated.

(d) If the obligations contain an option permitting retirement before maturity, the commission may provide that the excess sums shall be paid out as authorized by Subsection (b) of this section for the purchase of the obligations, but if the commission is unable to purchase sufficient obligations of the issue to absorb all the surplus, it shall call a sufficient amount of the obligations for redemption to absorb insofar as practicable the entire surplus remaining in the sinking fund.

(e) The commission may provide that any excess in the sinking fund which cannot be applied to the purchase or redemption of obligations shall remain in the sinking fund for payment of principal and interest and for subsequent call for purchase or redemption.

[Acts 1971, 62nd Leg., p. 575, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.110. Revenue Set Aside for Sinking Fund

(a) A resolution or an order authorizing the issuance of obligations under this subchapter shall provide that the revenue from which the obligations are to be paid shall, from month to month as it accrues and is received, be placed in a sinking fund and disbursed in the manner provided in Section 60.109 of this code.

(b) In determining the amount of revenue to be set aside, the commission shall provide that the amount to be set aside and paid into the fund in any year shall not be less than a fixed sum which shall be at least sufficient to provide for the payment of the principal of and interest on all obligations which mature and become payable each year and shall include a surplus or margin of 10 percent in excess of that amount.

[Acts 1971, 62nd Leg., p. 575, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.111. Deposit of Proceeds of Obligations; Payment

(a) The proceeds of the sale of any obligations issued under this subchapter may be deposited in a bank or banks and paid out on terms and conditions agreed on by the purchaser at the sale and the commission.

(b) The laws of this state relating to the deposit of district funds in the depository of the district shall not apply to the deposit of the proceeds of a sale governed by Subsection (a) of this section.

(c) Any part of the proceeds of the sale of obligations issued under this subchapter which remains unspent after the project for which the obligations were authorized has been completed may be paid into the sinking fund for the payment of the obligations and may be used only for the payment of principal of the obligations or for the purpose of purchasing outstanding obligations in the manner provided by this subchapter.

[Acts 1971, 62nd Leg., p. 576, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.112. Insuring Improvements to Protect Holders of Obligations

(a) The commission may enter into agreements with purchasers of any obligations issued under this subchapter to insure improvements and facilities, the revenue of which is pledged to the payment of the obligations.

(b) The commission may obtain from insurers of good standing:

- (1) insurance against loss or damage by fire, water, or flood;
- (2) insurance against loss or damage from any hazards customarily insured against by private companies operating similar properties; and
- (3) insurance covering the use and occupancy of the property as is customarily carried by private companies.

(c) The cost of the insurance shall be budgeted as maintenance and operation expense and shall be carried for the benefit of the holders of the obligations.

[Acts 1971, 62nd Leg., p. 576, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.113. Compelling Performance of Duties

A holder of obligations issued under this subchapter or coupons originally attached to the obligations may by any legal proceeding enforce and compel performance of all duties required by this subchapter to be performed by the commission. The duties which can be the basis of an action under this section shall include:

- (1) the establishment and collection of reasonable and sufficient fees or charges for the use of improvements and facilities of the district;
- (2) the segregation of the income and revenue from improvements and facilities; and
- (3) the application of income and revenue pursuant to the provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 576, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.114. Obligations Exempt From Taxation

Any obligations issued under this subchapter shall be exempt from taxation by the State of Texas, any municipal corporation, any county, and/or any other political subdivision or taxing district of the state.

[Acts 1971, 62nd Leg., p. 577, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.115. Refunding Obligations

(a) A district issuing obligations under the provisions of this subchapter may authorize issuance of its refunding obligations on terms its commission considers advisable for the purpose of providing for the retirement of outstanding obligations which are either due or to become due.

(b) The refunding obligations either may be exchanged for the same par amounts of outstanding obligations or may be sold and the proceeds of the sale exchanged for the same par amounts of outstanding obligations.

(c) Refunding obligations authorized and issued under Subsection (a) of this section are subject to the provisions of this subchapter relating to the issuance of other obligations and shall be secured in all respects to the same extent and shall be payable from the same revenue as the obligations which they refund.

[Acts 1971, 62nd Leg., p. 577, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.116. Approval and Registration of Bonds

(a) Bonds issued under this subchapter shall be submitted to the Attorney General of Texas for his approval in the same manner and with the same effect as provided for the approval of tax bonds issued by counties of the state.

(b) Bonds issued under this subchapter shall be registered by the Comptroller of Public Accounts of Texas as required for county tax bonds.

[Acts 1971, 62nd Leg., p. 577, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.117. Bonds as Investments

Bonds authorized and issued under this subchapter are legal and authorized investments for life insurance companies authorized to do business in Texas.

[Acts 1971, 62nd Leg., p. 577, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.118. Board of Trustees of Facility

(a) A district which constructs, purchases, or otherwise acquires or plans to construct, purchase, or otherwise acquire any facility authorized in Section 60.101 of this code to be paid for in whole or in part by the issuance and sale of obligations payable from and secured by a pledge of revenue authorized in this subchapter may vest management and control of the facility during the time the obligations or

refunding obligations are secured in whole or in part by the pledge of revenue, in a board of trustees named in the resolution or indenture.

(b) The board of trustees shall consist of not less than five nor more than nine members, and shall be entitled to receive the compensation fixed by the resolution or indenture, which shall not be more than one percent of the gross receipts of the facility in any one year.

(c) The commission shall specify in the resolution or indenture:

(1) the terms of office of the members of the board of trustees;

(2) the powers and duties of the board, including the power to fix fees and charges for the use of the facility;

(3) the manner of exercising the powers and duties;

(4) the manner of selecting the successors of the board of trustees; and

(5) all matters relating to board members' duties and the organizing of the board.

(d) The board of trustees may adopt bylaws regulating the procedure of the board and fixing the duties of its officers, but the bylaws may not contain any provision in conflict with the covenants and provisions contained in the resolution authorizing the bonds or in the indenture.

(e) In all matters relating to powers, duties, obligations, and procedure of the board of trustees which are not covered in the bylaws and the resolution or indenture, the laws and rules governing the commission shall control, where applicable.

(f) When the board is created by the resolution or indenture, it shall have all of the power and authority for the management and operation of any facility which could be exercised by the commission.

(g) By the terms of the resolution or indenture, the commission may make provision for later supplementation of the resolution or indenture to vest the management and control of the facility in a board of trustees having the powers, rights, and duties conferred or imposed by this section.

[Acts 1971, 62nd Leg., p. 577, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1159, ch. 264, § 1, eff. May 19, 1971.]

§ 60.119. Covenants for Management and Operation of Improvements

(a) A resolution or order authorizing the issuance of obligations under this subchapter may include covenants with the holders of the obligations relating to:

(1) the management and operation of the improvements and facilities;

(2) the collection of fees and charges for the use of the improvements and facilities;

(3) the disposition of the fees and charges;

(4) the issuance of future obligations and creation of future liens and encumbrances against

the improvements, facilities, and the revenue from them; and

(5) other pertinent matters, as may be deemed necessary to insure the marketability of the obligations.

(b) The covenants shall not be inconsistent with the provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 578, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.120. Contracts, Leases, and Agreements Authorized

(a) A district acting under the provisions of this subchapter may enter into any contract, lease, or agreement necessary or convenient to carry out any of the powers granted in this subchapter. The contract, lease, or agreement may be entered into with any person and any government or governmental agency including the United States and the State of Texas.

(b) Any contract, lease, or agreement entered into under Subsection (a) of this section shall be approved by resolution of the commission and shall be executed by the chairman and attested by the secretary of the commission.

[Acts 1971, 62nd Leg., p. 578, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.121. Conversion of District

(a) If the commission of any district organized under Article III, Section 52, of the Texas Constitution, finds it expedient to convert the district into a district operating under the provisions of Article XVI, Section 59, of the Texas Constitution, in order to utilize the provisions of this subchapter, the conversion may be accomplished as provided in Subchapter J of this chapter.

(b) All proceedings and hearings held in connection with a conversion shall be adopted and conducted by the commission of the district instead of by the navigation board of the district.

[Acts 1971, 62nd Leg., p. 578, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.122. Improvements Not Payable From Taxes

(a) No district, in the operation, maintenance, or repair of any improvements or facilities acquired, purchased, or constructed under the provisions of this subchapter, shall incur any indebtedness or assume any liability or obligation payable out of taxes.

(b) Liabilities and obligations arising from these activities are payable solely out of the revenue from the improvements and facilities which may be applicable as authorized in this subchapter.

[Acts 1971, 62nd Leg., p. 579, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.123. Pilot and Pilotage Laws Unaffected

No provision of this subchapter may be construed to amend, repeal, or affect the laws relating to pilots and pilotage or their appointment and remuneration.

[Acts 1971, 62nd Leg., p. 579, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.124 to 60.150 reserved for expansion]

SUBCHAPTER F. CONTRACTS WITH THE UNITED STATES

§ 60.151. Purpose

It is the purpose and intent of this subchapter to confer on districts jointly or mutually interested in a navigation project which has been approved by the United States, either by Act of Congress or act of the secretary of defense, the fullest possible power of contract with regard to the project of common interest.

[Acts 1971, 62nd Leg., p. 579, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.152. Authority to Enter Into Contract

(a) Two or more districts, all or parts of which are located in one county and which are interested in or may, in the judgment of the commission, be benefited by a navigation project approved by Act of Congress or by the secretary of defense, may enter into contracts with the United States and with each other to consummate the projects of common interest.

(b) The contract may provide for:

(1) the assumption of joint or joint and several liability for construction, completion, and consummation of the project;

(2) the acquisition of property in connection with the project;

(3) the lending and contribution of funds of the district to the United States or to any other district in support or in aid of the project; and

(4) the assumption of responsibility for valid obligations, incurred in furtherance of the common project, of the United States or of any district.

[Acts 1971, 62nd Leg., p. 579, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.153. Execution of Contracts

A contract entered into by a district under this subchapter shall be approved by resolution of the commission, executed by the presiding officer of the commission, and duly attested by the corporate seal of the district.

[Acts 1971, 62nd Leg., p. 580, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.154 to 60.170 reserved for expansion]

SUBCHAPTER G. POWERS OF DISTRICT TO
PROVIDE IMPROVEMENTS
WITHOUT TAXATION

§ 60.171. Authority to Borrow Money and Encumber Property and Franchise

(a) A district organized under the provisions of the constitution or laws of this state and created for the development of deep water navigation may borrow money and may mortgage and encumber part or all of its properties and facilities, the franchise, revenue, and income from the operation of its properties and facilities and everything pertaining to its properties and facilities to secure the payment of funds to purchase, build, improve, enlarge, extend, or repair any of its wharves, docks, warehouses, levees, bulkheads, canals, waterways, or other aids to navigation.

(b) As additional security, the encumbrance may pledge the net income and revenue from the operation of properties and facilities of the district and may provide for a grant, to a purchaser under sale or foreclosure, of a franchise to operate, subject to all regulatory laws, the encumbered property and facilities for a term of not more than 20 years from the date of purchase.

[Acts 1971, 62nd Leg., p. 580, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.172. Notice of Hearing on Indebtedness

(a) When, for the purposes authorized by Section 60.171 of this code, a commission proposes to borrow money and mortgage and encumber any part or all of its properties, facilities, franchises, revenue, and income from the operation of its properties and facilities, the commission shall give notice of intention to authorize and issue the evidence of the indebtedness.

(b) The commission shall fix a time and place at which a public hearing concerning the proposed indebtedness shall be held. The date of the hearing shall be not less than 15 days nor more than 30 days from the date of the resolution of the commission giving the notice.

(c) Notice published by the commission under this section shall:

- (1) include a statement of the amount and purpose of the proposed indebtedness;
- (2) inform all persons of the time and place of hearing; and
- (3) inform all persons of their right to appear at the hearing and contend for or protest the creation of the indebtedness.

(d) The secretary of the commission shall post copies of the notice for 10 days before the day of hearing in three public places in the district and at the door of each county courthouse located in the district.

(e) The notice also shall be published one time not less than five days before the day of the hearing in a newspaper of general circulation in the district. If a newspaper is not published in the district, the notice shall be published in some newspaper published in any county situated in whole or in part within the district.

(f) The duties imposed on the secretary of the commission by this section may be performed by any commission member or the assistant secretary of the commission.

[Acts 1971, 62nd Leg., p. 580, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.173. Hearing on Indebtedness

(a) At the time and place set for the hearing or on a subsequent date, the commission shall hear and determine all matters concerning the proposed indebtedness, and the hearing may be adjourned from day to day and from time to time as the commission considers necessary.

(b) At the hearing, any person interested may appear before the commission in person or by attorney and contend for or protest the creation of the proposed indebtedness.

(c) The commission may adopt a resolution or order providing for the assumption of the proposed indebtedness and the issuance of the evidence of the indebtedness if at the hearing it is determined by the commission that the proposed improvements are necessary, feasible, practicable, and needed and will benefit the property in the district.

(d) The commission may, in respect to the issuance, sale, and delivery of securities evidencing the indebtedness, adopt all necessary resolutions, orders, certificates, and trust indentures.

[Acts 1971, 62nd Leg., p. 581, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.174. Issuance of Obligations

(a) The district may issue evidences of indebtedness secured by encumbrance which mature not more than 20 years after the date of issuance.

(b) The encumbrance and evidences of indebtedness shall include the clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

[Acts 1971, 62nd Leg., p. 581, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.175. Execution and Sale of Obligations

(a) Each note, warrant, or other security evidencing any indebtedness created under the provisions of this subchapter shall be signed by the chairman of the commission, countersigned by the secretary of the commission, and have the seal of the district impressed on it.

(b) Each note, warrant, or other security may be registered as to principal by the trustee named and designated by the commission in the trust indenture executed by the commission to secure payment of the obligation.

(c) The evidences of indebtedness may be sold by the commission on the best terms and for the best price possible.

[Acts 1971, 62nd Leg., p. 581, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.176. Obligations as Charge on Encumbered Property and Facilities

(a) No obligation issued under Section 60.174 of this code shall be a debt of the district issuing the obligation but shall be solely a charge on the encumbered property and facilities.

(b) Revenue and income from the encumbered property and facilities of the district shall not be considered in determining the power of the district to issue any bonds for any purpose authorized by law.

[Acts 1971, 62nd Leg., p. 581, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.177. Lien on Revenue; Foreclosure of Encumbrance

(a) If the revenue and income from the properties and facilities of the district are encumbered under the provisions of this subchapter, the expense of operation and maintenance necessary to render efficient service of the properties and facilities shall be a first lien and charge against the revenue and income. The first lien shall be prior to and superior to the lien of the encumbrance.

(b) No encumbrance shall be foreclosed because of default of the district until the default has existed for a period of 90 days and notice of the default has been served on the commission.

[Acts 1971, 62nd Leg., p. 582, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.178. Trustee to Enforce Foreclosure; Franchise Under Foreclosure

(a) The encumbrance may provide for a trustee to enforce foreclosure.

(b) In the event of foreclosure of an encumbrance created under this subchapter, the encumbrance may provide for the grant of a franchise to the purchaser under foreclosure to operate the properties encumbered for a period not to exceed 20 years from the date of default. The district shall have the option at any five-year period for 20 years after default to repurchase the properties on reasonable terms and at reasonable prices to be set forth in the encumbrance.

(c) The provisions of Sections 61.164-61.168 of this code, relating to the grant of franchises by

districts, shall not apply to the grant of any franchises under authority of this section.

[Acts 1971, 62nd Leg., p. 582, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.179. Borrowing for Current Expenses

The district may borrow funds and issue warrants to pay current expenses. The warrants issued shall be payable not later than the close of any calendar year for which loans are made and may not exceed in total the anticipated revenue of the district.

[Acts 1971, 62nd Leg., p. 582, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.180. Management and Control by Commission

The management and control of any property and facilities encumbered under the provisions of this subchapter shall, during the time of the encumbrance, be exercised by the commission.

[Acts 1971, 62nd Leg., p. 582, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.181. Proceedings to Borrow Money

(a) The commission shall supervise all proceedings to be taken and acts to be performed under this subchapter concerning the borrowing of money, the mortgaging and encumbering of properties and facilities, the franchise, revenue, and income from the operation of properties and facilities, and the issuance of evidences of indebtedness.

(b) The commissioners court of any county included in whole or in part inside the boundaries of a district and the navigation board established for a district shall not be required to take any action in connection with this subchapter, approve or ratify any proceedings taken by the commission, or approve or ratify any act performed by the commission.

[Acts 1971, 62nd Leg., p. 582, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.182 to 60.200 reserved for expansion]

SUBCHAPTER H. PROMOTION AND DEVELOPMENT FUND IN CERTAIN DISTRICTS

§ 60.201. Purpose

Districts in this state which include cities of 100,000 or more inhabitants and which operate ports or waterways and harbor and terminal facilities are in keen competition with other ports, waterways, harbors, and terminals outside the state and with privately owned port and terminal facilities inside the state. Well-situated and well-equipped ports and waterways in other nearby states and owners of substantial port and terminal facilities located inside and outside the state are advertising, promoting and developing their competing ports, waterways, harbors, and terminals through expenditure of large amounts of money without any audit or restriction

on expenditure of the money. This activity or expenditure is thwarting and impeding the use, progress, and development of the ports, waterways, harbors, and terminals of this state. Continuation of this hardship and injustice can best be met and coped with by more liberal use of some relatively small fund set aside from the gross income from operations of the ports of this state to be used in the manner provided in this subchapter.

[Acts 1971, 62nd Leg., p. 583, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.202. Creation of Fund

A district organized under general or special law and containing a city of 100,000 or more population, according to the last preceding federal census, may set aside out of current income from its operations a promotion and development fund of not more than five percent of its gross income from operations in each calendar year.

[Acts 1971, 62nd Leg., p. 583, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.203. Expenditure of Fund

Money in the promotion and development fund shall be spent by the commission or as the commission may direct to pay any expenses connected with:

- (1) any activity or matter incidental to the advertising, development, or promotion of the district or its ports, waterways, harbors, or terminals;
- (2) furthering the general welfare of the district and its facilities; or
- (3) the betterment of the district's relations with steamship and rail lines, shippers, consignees of freight, governmental officials, or others interested or sought to be interested in the ports, waterways, harbors, or terminals.

[Acts 1971, 62nd Leg., p. 583, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.204. Management and Control of Promotion and Development Fund

(a) The money in the promotion and development fund shall be kept separate from all other funds and accounts of the district, and no money collected from assessing or levying taxes may be mingled with the fund.

(b) The promotion and development fund shall be under the exclusive control of the commission, and the commission shall have full responsibility for auditing, approving, and safeguarding the expenditure of money from the fund.

(c) The county auditor shall exercise his usual supervision and control to assure that the commission sets aside no more than five percent of its gross income from operations in each calendar year in the promotion and development fund. The county auditor shall not audit disbursements from the fund but shall be entitled to a monthly statement showing the:

- (1) date of each disbursement from the fund;
- (2) amount disbursed;
- (3) person or concern to whom disbursed; and
- (4) general purpose of each disbursement.

[Acts 1971, 62nd Leg., p. 583, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.205. Other Expenses Not Affected

Since this subchapter authorizes disbursements from the promotion and development fund for unusual purposes and occasions not covered by other law, the setting aside of the fund and disbursements from the fund shall not affect payment of other expenses customarily approved, audited, and paid out of the regular funds of the district.

[Acts 1971, 62nd Leg., p. 584, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.206 to 60.220 reserved for expansion]

SUBCHAPTER I. REVENUE BONDS

§ 60.221. Modification of Revenue Bond Resolution

If a district adopts a resolution for the issuance of revenue bonds, provision may be made in the resolution for its modification after the issuance of the bonds in the manner and with the consent of the holders of a fixed percentage of the bonds if provided in the resolution before the issuance of the bonds.

[Acts 1971, 62nd Leg., p. 584, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.222 to 60.240 reserved for expansion]

SUBCHAPTER J. CONVERSION OF DISTRICTS

§ 60.241. Authority to Convert

Any district created under the provisions of Article III, Section 52, of the Texas Constitution may be converted into a district operating under Article XVI, Section 59, of the Texas Constitution, in the manner provided in this subchapter.

[Acts 1971, 62nd Leg., p. 584, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.242. Resolution

(a) The navigation board shall adopt a resolution declaring that in its judgment conversion to a district operating under Article XVI, Section 59, of the Texas Constitution will be in the best interest of the district and will be a benefit to the land and property located in the district.

(b) The resolution shall call a hearing and shall be entered in the minutes of the board.

[Acts 1971, 62nd Leg., p. 584, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.243. Notice of Resolution

(a) Notice of the resolution shall be given by publishing notice once a week for two consecutive weeks in a newspaper with general circulation in the county in which the district is located. The first publication shall appear not less than 14 full days before the time set for the hearing.

(b) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the entire resolution; and
- (3) notify interested persons to appear and offer testimony for or against the proposal.

[Acts 1971, 62nd Leg., p. 585, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.244. Findings

(a) After the hearing, if the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would be in the best interest of the district and would be a benefit to the land and property located in the district, it shall enter an order making these findings and the district shall become a district operating under Article XVI, Section 59, of the Texas Constitution.

(b) If at the hearing the navigation board finds that conversion of the district into a conservation and reclamation district operating under Article XVI, Section 59, of the Texas Constitution would serve the best interests of the district and would be a benefit to the land and property located in the district, it may, in the alternative to the procedures prescribed in Subsection (a) above, enter an order making this finding, but providing that conversion is not final unless the voters, in the election provided by Section 60.247 of this code, authorize the conversion of the district and the continuation of the existing authority of the district to levy an annual maintenance tax of not to exceed 10 cents on the \$100 valuation of all property in this district.

(c) If the navigation board finds that conversion to a district operating under Article XVI, Section 59, of the Texas Constitution, would not be in the best interest of the district and would not be a benefit to the land and property located in the district, it shall enter an order making these findings.

(d) The findings of the navigation board are final and are not subject to appeal or review.

[Acts 1971, 62nd Leg., p. 585, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 4245, ch. 677, § 1, eff. June 19, 1983.]

§ 60.245. Status of Converted District

A district which is converted under the provisions of this subchapter shall be constituted a district operating under Article XVI, Section 59, of the Texas Constitution and shall be governed by the provisions of Chapter 62 of this code as if it had originally been organized under Article XVI, Section 59, of the Texas Constitution, except the commis-

sioners of a converted district shall be appointed in the manner that initial commissioners are appointed under Sections 62.061 and 62.062 of this code.

[Acts 1971, 62nd Leg., p. 585, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.246. Powers of Converted District

(a) Nothing in this subchapter shall be construed to deprive a converted district of any powers conferred on it by the law under which it was organized.

(b) A converted district shall have the additional powers conferred on districts under Sections 61.151, 61.161-61.168, 61.170, and 61.172-61.175 of this code, and the commissioners of a converted district shall constitute a pilot board under the provisions of Articles 8248-8257, Revised Civil Statutes of Texas, 1925.

(c) If there is a conflict between the powers conferred by Section 60.245 of this code and the powers preserved by Subsection (a) of this section, the powers conferred by Section 60.245 shall control.

[Acts 1971, 62nd Leg., p. 585, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.247. Optional Election

(a) If the navigation board finds in favor of the conversion of the district but pursuant to Subsection (b) of Section 60.244 of this code provides that the conversion is not final, the commissioners court of jurisdiction shall order an election to be held in the district and shall submit to the electors residing in the district the proposition of whether or not the district should be converted and should be authorized to continue to levy an annual tax for the maintenance, operation, and upkeep of the district of not to exceed 10 cents on the \$100 valuation of all property within the district.

(b) The clerk of the commissioners court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the district.

(c) If the district is composed of more than one county, the notices required by Subsection (b) of this section shall be posted in each county.

(d) The notices must be posted for 30 days immediately preceding the time set for election.

(e) The notices must include:

- (1) the time and place of the election;
- (2) the proposition to be voted on; and
- (3) a copy of the election order.

(f) The commissioners court by order shall define the voting precincts in the district and shall name convenient polling places in the precincts.

(g) Immediately after the election, the officers holding the election shall make returns of the results to the commissioners court of jurisdiction, and the commissioners court shall promptly canvass the

returns at a regular or special session of the commissioners court following the election.

[Acts 1983, 68th Leg., p. 4246, ch. 677, § 2, eff. June 19, 1983.]

§ 60.248. Effect of Election

If the commissioners court finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the results of the election to be in favor of conversion of the district and the levy of the annual maintenance tax and shall enter the results in its minutes. If the commissioners court finds that a majority of those voting at the election voted against the proposition, it shall declare the results of the election to be unfavorable to the conversion of the district and shall enter the results in its minutes.

[Acts 1983, 68th Leg., p. 4246, ch. 677, § 2, eff. June 19, 1983.]

§ 60.249. Effect of Optional Conversion

(a) If the conversion is approved by the voters, as provided in Sections 60.247 through 60.248 of this code, the district shall have the same right, power, and authority as is provided in Sections 60.245 through 60.246 of this code.

(b) The district may continue to levy taxes to fully carry out each purpose of its organization and for the payment of obligations and the maintenance and operation of the district without impairment or change in any of its obligations.

(c) The district shall advise the Texas Water Commission of a conversion not later than the 45th day after the results of the election are canvassed by the commissioners court.

[Acts 1983, 68th Leg., p. 4246, ch. 677, § 2, eff. June 19, 1983.]

[Sections 60.250 to 60.270 reserved for expansion]

SUBCHAPTER K. DEPOSITORY

§ 60.271. Selection of Depository

(a) The commission shall select a depository for the district under the law providing for the selection of a county depository.

(b) The commission in selecting the depository shall act in the same capacity and perform the same duties as the county judge and the commissioners court in selecting a county depository.

[Acts 1971, 62nd Leg., p. 586, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.272. Depository Bond

The depository shall have all the powers and duties in the execution of a depository bond and in pledging of collateral in lieu of or in addition to a

personal surety or surety company bond as provided by law for a county depository.

[Acts 1971, 62nd Leg., p. 586, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 60.273. Treasurer's Bond

After the depository executes the bond and it is approved by the commission, the county treasurer shall be required to execute only such a bond as required by the commission.

[Acts 1971, 62nd Leg., p. 586, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.274 to 60.300 reserved for expansion]

SUBCHAPTER L. REFUNDING BONDS

§ 60.301. Authority to Issue Refunding Bonds

The governing body of any district may refund the bonded indebtedness of the district without a vote of the electors of the district in the manner provided by law for counties, cities, and towns and may refund the bonded indebtedness owned by the State Board of Education in the manner provided for independent school districts incorporated for free school purposes only.

[Acts 1971, 62nd Leg., p. 586, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 60.302 to 60.330 reserved for expansion]

SUBCHAPTER M. TAX BONDS, REVENUE BONDS, AND COMBINATION TAX AND REVENUE BONDS

§ 60.331. Classes of Bonds Authorized

For the purpose of carrying out any one or more powers of a district, the governing body of any district may issue negotiable bonds of three general classes:

- (1) bonds secured by ad valorem taxes;
- (2) bonds secured solely by a pledge of all or part of the revenues accruing to the district, including but without limitation those received from sale of water, rendition of services, tolls, charges, and from all sources other than ad valorem taxes;
- (3) bonds secured by a combination pledge of revenues and taxes.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.332. Issuance of Bonds

(a) Any district may issue bonds provided in Subdivision (2), Section 60.331 of this code, by action of its governing body and without the necessity of an election.

(b) Bonds to be issued under Subdivisions (1) and (3), Section 60.331 of this code, can be issued only after authorization at an election held for that purpose throughout the territory comprising the dis-

tract. The elections shall be conducted substantially in accordance with the procedure prescribed in the Election Code.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.333. Form of Bonds

(a) Bonds of the district shall be authorized by resolution adopted by the governing board and shall be signed by the presiding officer or assistant presiding officer, and attested by the secretary, and the seal of the district shall be impressed on them.

(b) Within the discretion of the district, as evidenced by the resolution, bonds may be issued bearing the facsimile signatures of the officers and the seal of the district may be lithographed or printed thereon.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.334. Maturity of Bonds

Bonds shall mature serially or otherwise within the period and at the times which may be prescribed in the resolution, but not to exceed a maximum of 50 years.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.335. Registered and Bearer Bonds

The bonds may be registered as to principal or as to both principal and interest, and appropriate provisions may be inserted in the resolution authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer bonds and vice versa.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.336. Lost and Destroyed Bonds

Provisions may be made in the bond resolution or trust indenture for the substitution of new bonds for those lost or mutilated.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.337. Approval of Converted or Substituted Bonds

When bonds are approved by the attorney general and registered by the comptroller as prescribed in Section 60.345 of this code, it shall not be necessary to obtain the approval of the attorney general or registration by the comptroller of converted or substituted bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.338. Bonds Secured by Revenues

(a) Bonds secured wholly or in part by a pledge of the revenues of the district may be secured by all or that part of the revenues specified in the resolution

authorizing the bonds or in the indenture securing the bonds.

(b) In making any pledge of the revenues, the right under the conditions specified to issue additional bonds which will be on a parity with, senior to, or subordinate to the bonds then being issued, may be expressly reserved.

(c) Within the discretion of the governing body, bonds may be secured further by a lien on all or any part of the physical property of the district.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.339. Bonds Payable from Taxes

Where bonds are issued payable wholly from taxes, it is the duty of the governing body at the time of the bonds authorization to levy a tax sufficient to pay the principal of and interest on the bonds as the interest and principal become due, and to provide the reserve funds if prescribed in the resolution authorizing or the trust indenture securing the bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.340. Bonds Payable from Both Taxes and Revenues

(a) Where the bonds are payable both from taxes and from revenues of the district a tax shall be levied at the time of the authorization of the bonds sufficient to pay the principal and interest and create and maintain the reserve funds.

(b) The rate of tax actually to be collected for any year shall be fixed so as to take into consideration the money which shall have been in the interest and sinking fund from the pledged revenues and which will be available for payment of principal and interest and for the creation of the reserve funds to the extent and in the manner permitted by the resolution authorizing or the trust indenture securing the bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.341. Rates, Tolls, and Charges

(a) Where bonds are payable wholly from revenues, the governing body shall fix and from time to time revise the rates, tolls, and charges from the sales and services rendered by the district, the revenues from which are pledged, to the end that the rates, tolls, and charges will yield sufficient money:

- (1) to pay designated expenses of the district;
- (2) to pay the principal of and interest on the bonds as the principal and interest mature; and
- (3) to create and maintain funds as prescribed in the resolution authorizing or the trust indenture securing the bonds.

(b) Where the bonds are payable both from taxes and from revenues, the governing body shall fix and

from time to time revise the rates, tolls, and charges for sales and services rendered by the district, to the extent pledged, which will be sufficient to assure compliance with the resolution authorizing the bonds or the trust indenture securing them.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.342. Use of Bond Proceeds

(a) From the proceeds of the sale of any issue of bonds the district may set aside an amount for the payment of interest anticipated to accrue for the period specified or during the construction period and for a period after that time as the governing body may determine to be necessary and may provide for a deposit into reserves or the debt service fund to the extent prescribed in the resolution authorizing or the trust indenture securing the bonds.

(b) Proceeds from the sale of the bonds shall be used for the purposes for which the bonds were authorized and may be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the district is created, including the expense of issuing and selling the bonds.

(c) No expenditure of proceeds shall be made in violation of provisions contained in the resolution authorizing or the trust indenture securing the bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.343. Interim Bonds

Pending the issuance of definitive bonds the governing body may authorize the delivery of negotiable interim bonds or notes eligible for exchange or substitution by use of definitive bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.344. Refunding Bonds

(a) The district is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds and interest on them, authorized by this subchapter or any other indebtedness which the district may lawfully assume.

(b) No election shall be necessary in connection with the authorization and issuance of refunding bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.345. Approval and Incontestability of Bonds

(a) No bonds shall be issued by the district until they shall have been approved by the attorney general.

(b) After the bonds have been approved by the attorney general and registered by the comptroller of public accounts they shall be negotiable and incontestable.

(c) When the bonds of an issue are thus approved and registered, the bonds later delivered by the district in lieu of these bonds, pursuant to Section 60.337 of this code in connection with the exchange of registered for unregistered bonds, or unregistered bonds for registered bonds, or in lieu of lost or mutilated bonds, need not be reapproved by the attorney general or reregistered by the comptroller of public accounts. Nevertheless, the bonds shall likewise be incontestable, and except for the limitations resulting from registration shall be negotiable.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.346. Additional Security

(a) Any bonds, including refunding bonds, authorized by this subchapter, and not payable wholly from ad valorem taxes, may be additionally secured by a trust indenture under which the trustee may be a bank having trust powers which may be situated either inside or outside the State of Texas.

(b) The trust indenture may contain provisions prescribed by the governing body for the security of the bonds and the preservation of its properties, contracts, and rights. It may contain a provision for the amendment or modification of the trust indenture in the manner which it prescribes.

(c) Without limiting the generality of the provisions which may be contained in the indenture, it may provide that the district shall comply with the requirements of designated consulting engineers for the proper maintenance and operation of the district's properties and for the fixing of adequate tolls, charges, and rates, to assure proper maintenance and operation, and to provide proper debt service for the outstanding bonds in the manner prescribed in the resolution authorizing the issuance of the bonds or in the trust indenture securing the bonds.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.347. Investment of Bond Proceeds

(a) The proceeds from the sale of any issue of bonds may, within the discretion of the board, be invested prior to their use for the purposes for which they were issued, in bonds or other direct obligations of, or obligations unconditionally guaranteed by, the United States or in certificates of deposit issued by banks as long as the certificates are secured by such obligations.

(b) The investments may be sold pursuant to the directions of the governing body as and when needed for their use for the purposes for which the bonds were issued.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.348. Bonds as Investments

(a) All bonds issued pursuant to this subchapter shall be and are hereby declared to be legal and

authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking fund of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas.

(b) The bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas and the bonds shall be lawful and sufficient security for the deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

§ 60.349. Effect of Subchapter

This subchapter shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it, without reference to any other laws, or any restrictions or limitations contained therein, except as specifically provided in this subchapter. When any bonds are being issued under this subchapter, then to the extent of any conflict or inconsistency between any provisions this subchapter shall prevail and control; provided, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions of this subchapter, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this subchapter.

[Acts 1973, 63rd Leg., p. 770, ch. 343, § 1, eff. Aug. 27, 1973.]

CHAPTER 61. ARTICLE III, SECTION 52, NAVIGATION DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 61.001. Definitions

In this chapter:

- (1) "District" means a navigation district created under Article III, Section 52, of the Texas Constitution.
 (2) "Commission" means the navigation and canal commission of a district.
 (3) "Board" means the navigation board.
 (4) "Commissioners court" means the commissioners court of the county in which the district is located or the commissioners court of the county of jurisdiction.
 (5) "Commissioner" means a member of the navigation and canal commission.

[Acts 1971, 62nd Leg., p. 586, ch. 58, § 1, eff. Aug. 30, 1971.]

[Section 61.002 to 61.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

§ 61.021. Creation

A navigation district may be created as provided in this chapter to operate under Article III, Section 52 of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 587, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.022. Area Included in District

A district may include all or part of a village, town, or municipal corporation, but may not include more than all or parts of two counties.

[Acts 1971, 62nd Leg., p. 587, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.023. District May Include Road District

On petition signed by a majority of the property taxpayers who reside in the special road district, a district which includes all or parts of two counties may include any special road district which has voted bonds to construct public roads. If the entire county which includes the road district is included in the district, this section does not apply.

[Acts 1971, 62nd Leg., p. 587, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.024. Petition to Create Single-County District

(a) To create a district located wholly in one county, a petition, signed by 25 of the resident property taxpayers, or if there are fewer than 75 resident property taxpayers in the proposed district, then by one-third of them, shall be presented to the commissioners court of the county.

(b) The petition shall include:

- (1) a request for the establishment of a navigation district;
 (2) a description of the boundaries of the proposed district, accompanied by a map;
 (3) a statement of the general nature of the improvements proposed;
 (4) an estimate of the probable cost;
 (5) a request for the issuance of bonds and the levy of a tax to pay for the bonds; and
 (6) the designation of a name for the district which shall include the name of the county.

(c) An affidavit stating the qualifications of the petitioners shall accompany the petition.

[Acts 1971, 62nd Leg., p. 587, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.025. Petition to Create District in Two Counties

(a) If the proposed district is located in two counties, the petition shall be presented to the commissioners court of the county which includes the greater part of the district, and this county shall be the county of jurisdiction with relation to all matters concerning the district.

(b) The petition shall be signed by 25 resident property taxpayers in each county in the district or if there are fewer than 75 resident property taxpayers in either of the counties, then by one-third of the resident property taxpayers in that county.

(c) The name of the district shall include the name of the county which has jurisdiction.

[Acts 1971, 62nd Leg., p. 587, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.026. Deposit

(a) The petition shall be accompanied by \$500 in cash, which shall be deposited with the clerk of the commissioners court.

(b) The money shall be held by the clerk until after the result of the election for the creation of the district has been declared and entered of record by the commissioners court.

(c) If the result of the election is in favor of the establishment of the district, the deposit shall be returned to the petitioners or their agent or attorney.

(d) If the result of the election is against the establishment of the district, the clerk shall pay out of the \$500, with vouchers signed by the county judge, all costs and expenses connected with the proposed district, including the election. Any balance shall be returned to the petitioners or their agents or attorney.

[Acts 1971, 62nd Leg., p. 588, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.027. Hearing

(a) On presentation of the petition, the commissioners court shall order a hearing to be held at a regular or special term of the commissioners court.

(b) The hearing shall be held not less than 30 days nor more than 60 days from the date the petition is presented.

[Acts 1971, 62nd Leg., p. 588, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.028. Notice of Hearing

(a) The commissioners court shall order the clerk to give notice of the date and place of the hearing by posting a copy of the petition and the order of the commissioners court at the courthouse door and at four other public places within the boundaries of the proposed district.

(b) The notices shall be posted not less than 20 days immediately preceding the time set for the hearing.

(c) If the district is composed of more than one county, the notices shall be posted in each county.

(d) The clerk is entitled to receive \$1 for each notice he posts and five cents a mile for each mile traveled to post the notices.

[Acts 1971, 62nd Leg., p. 588, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.029. Hearing by Board

(a) If the proposed district includes all or part of a city acting under special charter granted by the legislature, the hearing shall be held at the regular meeting place of the commissioners court before a board.

(b) The board shall include the county judge and the members of the commissioners court and the mayor and the aldermen or commissioners of the city or cities.

(c) The board shall pass on the petition with each individual member having one vote.

(d) A majority in number of the persons composing the board shall constitute a quorum, and the action of the quorum shall control.

(e) The hearing shall be held and notice shall be given as provided in Sections 61.027-61.028 of this code.

(f) The clerk shall record the proceedings of the board in the book kept for that purpose, and this record shall be available for public inspection.

[Acts 1971, 62nd Leg., p. 588, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.030. Conduct of Hearing

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections to the creation of the proposed district, all matters relating to the creation of the

proposed district, and all subsequent proceedings of the proposed district after it is organized.

(b) The commissioners court or the board may adjourn the hearing from day to day, and all judgments or decisions rendered by it shall be final unless otherwise provided in this chapter.

(c) Any person who might be affected by creation of the district may appear at the hearing and support or oppose creation of the proposed district and may offer testimony relating to:

- (1) the necessity and feasibility of the proposed district;
- (2) the benefits to accrue from formation of the proposed district;
- (3) the boundaries of the proposed district; or
- (4) any other matter concerning the proposed district.

[Acts 1971, 62nd Leg., p. 589, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.031. Findings

(a) If it appears at the hearing that the proposed improvements are feasible and practicable and would be a public benefit and utility, the commissioners court or the board shall make these findings and approve the boundaries stated in the petition or make changes in the boundaries.

(b) Changes may not be made in the proposed boundaries until notice is given and a hearing held in the manner provided in Sections 61.027-61.030 of this code.

(c) If the commissioners court or board is unable to make the findings under Subsection (a) of this section, it shall dismiss the petition at the cost of the petitioners. Dismissal of the petition shall not prevent presentation of other petitions at a later date.

(d) The commissioners court or the board shall enter all findings in its records.

[Acts 1971, 62nd Leg., p. 589, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.032. Providing Funds for Proposed Improvements

(a) If the commissioners court or the board approves the boundaries in the petition or as changed and decides to grant the petition, it shall determine the amount of money necessary for the improvements and all expenses connected with the improvements and whether to issue bonds for the full amount or, in the first instance, for a less amount.

(b) The commissioners court or the board shall specify the amount, term, and rate of interest of bonds to be issued.

[Acts 1971, 62nd Leg., p. 589, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.033. Election Order

(a) If the commissioners court or the board finds in favor of the establishment of the district and the issuance of bonds and levy of a tax, the commissioners court shall order an election to vote on the proposition.

(b) The election order shall specify the amount of the bonds to be issued, their maturity dates, and the rate of interest.

[Acts 1971, 62nd Leg., p. 589, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.034. Elections

(a) When an election is held under this chapter, notice shall be posted for 30 days before the election in the manner provided for posting notice. The notice shall include:

- (1) the time and place of the election;
- (2) the proposition;
- (3) the purpose of the election; and
- (4) a copy of the election order.

(b) Unless otherwise provided, a two-thirds vote is necessary to carry a proposition submitted at an election.

(c) The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint necessary election officials and shall hold elections at the earliest legal time.

(d) After canvassing the returns of an election, if the commissioners court finds that the proposition has carried, it shall declare the result and enter it in the minutes as provided in this chapter.

[Acts 1971, 62nd Leg., p. 590, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.035. Ballots

The ballots for the election shall be printed to provide for voting for or against the proposition: "The creation of a navigation district and the issuance of bonds and the levy of a tax to pay for the bonds."

[Acts 1971, 62nd Leg., p. 590, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.036. Declaration of Result

If the proposition carries at the election, the commissioners court shall enter the following declaration in its minutes:

"Commissioners Court of _____ County, Texas, _____ term A.D. _____: In the matter of the petition of _____ and _____ others requesting the establishment of a navigation district and the issuance of bonds and the levy of taxes in the petition described and designated by the name of _____ Navigation District. Be it known that at an election called for that purpose in the district, held on the _____ day of

_____ A.D. _____, a two-thirds majority of the electors voting on the proposition voted in favor of the creation of the navigation district, and the issuance of bonds and the levy of a tax. Now, therefore, it is considered and ordered by the court that the navigation district be and the same is hereby established by the name of _____ Navigation District, and that the bonds of the district in the amount of \$_____ be issued, and a tax of _____ cents on the \$100 valuation or so much thereof as may be necessary to be levied on all property inside the navigation district sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem them at maturity, and that if the tax becomes insufficient for these purposes, it shall be increased until it is sufficient. The metes and bounds of the district shall be as follows: (Description of metes and bounds.)"

[Acts 1971, 62nd Leg., p. 590, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 61.037 to 61.070 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 61.071. Appointment of Commissioners

After a district is created, the commissioners court or the board, by majority vote, shall biennially appoint three commissioners to the commission.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.072. Organization: Quorum

The commission shall organize by electing one of their number chairman and one secretary. Two of the commissioners shall constitute a quorum, and a concurrence of two shall be sufficient in all matters relating to the business of the district.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.073. Qualifications

To be qualified for appointment as a commissioner, a person must be a resident of the district, a freehold property taxpayer, and a qualified elector of the county.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.074. Term of Office, Removal, and Succession

(a) Each commissioner shall hold office for four years and until his successor has qualified, unless sooner removed by a majority vote of the commissioners court or the board for malfeasance or non-feasance in office.

(b) All vacancies in the office of commissioner shall be filled for the unexpired term in the manner provided for the original appointment to the office.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5217, ch. 951, § 13, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 61.075. Commissioner's Oath

Each commissioner shall subscribe an oath before the county judge of the county of jurisdiction to discharge faithfully the duties of his office without favor or partiality, and to render a true account of his activities to the commissioners court or the board which appointed him. The oath shall be filed by the clerk and preserved as a part of the records of the district.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.076. Commissioner's Bond

Each commissioner shall execute a good bond for \$1,000, payable to the county judge for the use and benefit of the district and conditioned on the faithful performance of his duties.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.077. Commissioners' Compensation

The commissioners are entitled to receive for their services compensation fixed by the commissioners court and entered in the record.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.078. District Treasurer

The county treasurer of the county of jurisdiction shall be treasurer of the district.

[Acts 1971, 62nd Leg., p. 591, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.079. District Treasurer's Bond

(a) Before receiving the proceeds of any district bonds and before receiving any district funds from any source, the district treasurer shall execute a good and sufficient bond payable to the commission for the benefit of the district. The bond shall be in an amount fixed and approved by the commission.

(b) The bond shall be conditioned on the district treasurer's faithfully executing the duties of his office, paying over all money that comes into his hands as the treasurer, and rendering a just account to the commissioners court or the commission when required to do so.

(c) The bond required by this section shall remain in full force and effect as long as any funds belong-

ing to the district are in the possession or under the control of the treasurer.

[Acts 1971, 62nd Leg., p. 592, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.080. District Treasurer's Compensation

The district treasurer shall be entitled to receive for his services an amount fixed by the commission.

[Acts 1971, 62nd Leg., p. 592, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.081. Duties Imposed Without Compensation

The duties and powers conferred on county, city and other officers under this chapter are a part of the legal duty of the officers which they shall perform without additional compensation, unless otherwise provided in this chapter.

[Acts 1971, 62nd Leg., p. 592, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.082. Court Actions

(a) The district, by and through its commission, may sue and be sued in any court in this state in the name of the district.

(b) The courts of this state shall take judicial notice of the establishment of the district.

[Acts 1971, 62nd Leg., p. 592, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 61.083 to 61.110 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES

§ 61.111. Purposes of District

A district may:

- (1) improve rivers, bays, creeks, streams, and canals inside or adjacent to the district;
- (2) construct and maintain canals and waterways to permit or aid navigation; and
- (3) issue bonds to pay for these improvements.

[Acts 1971, 62nd Leg., p. 592, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.112. Employees and Counsel

(a) The commission may employ assistant engineers and other employees which are necessary and may determine their compensation.

(b) The commission may retain counsel to represent the district in the preparation of contracts or in the conduct of any proceedings in or out of court and to be the legal advisor of the commission on terms and for fees agreed on by the parties.

[Acts 1971, 62nd Leg., p. 592, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.113. Authority to Go on Land

The commissioners and engineers, together with all necessary teams, help, tools and instruments, may go on any land located inside the district for the purpose of examining the land and making

plans, surveys, maps, and profiles, without subjecting themselves to the laws of trespass.

[Acts 1971, 62nd Leg., p. 593, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.114. Penalty for Prohibiting Entry to Land

Any person who wilfully prevents or prohibits any officer listed in Section 61.113 of this code from entering land for the purposes stated in that section on conviction shall be punished by a fine of not more than \$25 a day for each day he prevents or prohibits the officer from entering the land.

[Acts 1971, 62nd Leg., p. 593, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.115. Acquisition of Property

The commission may acquire by gift, grant, purchase, or condemnation any necessary rights-of-way and property for necessary improvements contemplated by the district.

[Acts 1971, 62nd Leg., p. 593, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.116. Lease of State Owned Lands and Flats

(a) Any district organized under this chapter or any special law or any general law under which navigation districts may be created may apply for a lease from the State of Texas of the surface estate of any lands and flats belonging to the state which are covered or partly covered by the water of any of the bays or other arms of the sea; however, any navigation district created after the effective date of this Act may not lease the surface estate of any such lands or flats which are located within 10 miles of the boundary of any navigation district in existence on the effective date of this Act, without first receiving the written approval of the district now in existence. The words "navigation district," "district," or "districts" as used in Sections 61.116, 61.117, and 60.038 of the Texas Water Code shall apply to any incorporated city in this state which owns and operates wharves, docks, and other marine port facilities.

(b) The state, through the School Land Board, may lease these state owned lands or flats to eligible navigation districts only for purposes reasonably related to the promotion of navigation. The term "navigation" as used herein refers to marine commerce and immediately related activities, including but not limited to port development; channel construction and maintenance; commercial and sport fishing; recreational boating; industrial site locations; transportation, shipping, and storage facilities; pollution abatement facilities; and all other activities necessary or appropriate to the promotion of marine commerce; but specifically does not refer to residential development.

(c) In making application for a lease of state owned lands or flats, the district shall include the following information:

(1) a description of the lands or flats sought to be leased;

(2) a plan showing how it proposes to utilize the land and a timetable indicating approximately when such utilization will take place;

(3) a draft environmental impact statement assessing the effect of the proposed use on the environment, which statement shall generally conform to the requirements of the National Environmental Policy Act,¹ until such time as the legislature shall impose different requirements; however, a draft environmental impact statement shall not be required if the proposed use requires no dredging, filling, or bulkheading. If the proposed use does require dredging, filling, or bulkheading, but² the lease shall be processed as provided in Subsections (d), (e), and (f) of this section without the filing of a draft environmental impact statement if the applicant so requests in writing; but in such a case, the School Land Board shall include in the lease provisions requiring (i) that the draft environmental impact statement required by federal law be filed with the School Land Board before the district makes any use of such lands or flats which requires dredging, filling, or bulkheading; (ii) that approval of such use be obtained from the School Land Board after copies of the summary of the draft environmental impact statement and a description of the proposed use are circulated for comment and a hearing held as provided in Subsections (d) and (e) of this section and the School Land Board shall be authorized to give its approval to make such amendments to the lease as may then be deemed necessary by it as a result of information developed in the draft environmental impact statement; and (iii) that the lease shall cease to be effective at a time specifically stated in the lease unless prior to that time accord concerning environmental issues has been reached between the district and the School Land Board;

(4) proof satisfactory to the board establishing the public convenience and necessity for acquisition of lands sought to be leased.

(d) Upon receipt of an application and accompanying information, the School Land Board shall submit copies thereof to the member agencies of the Interagency Council on Natural Resources and the Environment and all other appropriate state agencies for review and comment. In addition, the board shall submit for review and comment the proposed terms and conditions of the lease. The board shall allow 30 days for such review and comment, and may extend the review period for an additional 30 days upon written request by the executive director of any state agency.

(e) Following the expiration of the period provided for review and comment, or following the expiration of the 30 day extension of such period, if applicable, the School Land Board shall cause a hearing to be held in the county in which the land proposed to be leased is located. Notice of the

hearing shall be given by publication for at least three days, not less than two weeks nor more than four weeks prior to the hearing, in the daily paper having the greatest circulation in the county. Members of the board or their designated representatives shall conduct the hearing, at which any party may offer testimony in support of or in opposition to the application, and the board shall consider the record of the hearing in making a decision on the application.

(f) After submission of all evidence, the School Land Board shall authorize the issuance or denial of the proposed lease and shall determine the reasonable cost to the district, term of years, special limitations, if any, and other conditions necessary to best serve the interest of the general public. In establishing the consideration to be paid to the state for the lease, due weight shall be given to the depth of the water over the submerged land, its proximity to development activities, and its proposed use. Final action shall be taken by the board no more than 60 days following the public hearing.

(g) The funds derived from the lease shall be paid to the General Land Office for transfer to the proper funds of the state.

(h) Districts may sublease lands leased from the state under the provisions of this section to third parties for activities reasonably related to navigation, but such sublease shall be subject to the approval of the School Land Board according to the procedures, requirements, and criteria set forth in Subsections (c) and (d) of Section 61.116 of this code; provided, however, that no approval by the School Land Board shall be required if the sublease is for a purpose contemplated by the district and approved by the board in the district's original lease. It is further provided that no environmental impact statement shall ever be necessary for any sublease which requires no dredging, filling, or bulkheading, and which would not have a substantial impact upon the environment, or which requires only insubstantial dredging, filling, or bulkheading, as determined by the board; nor shall a district in obtaining approval for a sublease under any circumstances be required to reveal the name of the tenant to whom the sublease is to be made.

(i) If lands or flats leased from the state under the provisions of this section are utilized by the district or its sublessee for any purpose or use not approved by the School Land Board, the district shall be given notice and an opportunity to change and correct the use. If the use is not changed and corrected within a reasonable time after receipt of such notice, the lease may be terminated by the School Land Board and the lands or flats shall revert to the State of Texas.

[Acts 1971, 62nd Leg., p. 593, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 553, ch. 237, § 1, eff. June 11, 1973; Acts 1975, 64th Leg., p. 801, ch. 310, § 2, eff. May 27, 1975.]

¹ 42 U.S.C.A. § 4321 et seq.

² So in enrolled bill.

Sections 4 and 5 of the 1975 amendatory act provided:

"Sec. 4. Venue for any action arising under this Act brought by or against the State of Texas, or involving the state's claim to title to land conveyed or sought to be conveyed under this Act, shall lie in a district court of Travis County, Texas.

"Sec. 5. Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

§ 61.117. Limitations on Sales and Use of State Lands and Flats

(a) The State of Texas shall retain its rights in all mines and minerals, including oil, gas, and geothermal resources, in and under the land, together with the right to enter the land for the purpose of development when it leases land under Section 61.116 of this code.

(b) All leases of land under Section 61.116 are subject to oil, gas, or mineral leases in existence at the time of the lease to the district.

(c) Any land which has been franchised or leased or is being used by any navigation district or by the United States for the purpose of navigation, industry, or other purpose incident to the operation of a port shall not be entered or possessed by the State of Texas or by anyone claiming under the State of Texas for the purpose of exploring for oil, gas, or other minerals except by directional drilling. No easement, lease, or permit may be granted on land which has been leased to a navigation district which will interfere with the proposed use of the land by the navigation district, and the prior approval of the navigation district shall be obtained for such purpose.

(d) No surface drilling location may be nearer than 660 feet and special permission from the Commissioner of the General Land Office is necessary to make any surface location nearer than 2,160 feet, measured at right angles from the nearest bulkhead line designated by a navigation district or the United States as the bulkhead line or from the nearest dredged bottom edge of any channel, slip, or turning basin which has been dredged, or which has been authorized by the United States as a federal project for future construction, whichever is nearer.

(e) In the event land is leased to a navigation district for construction of a navigation project, the School Land Board may in the lease designate the district to be the agent of the State of Texas with authority to grant to the United States of America such easements for dredging and disposal of dredged material as may be required for federal participation in the project. In designating the district to be the agent of the State of Texas for the purpose of granting spoil easements, the board may include a requirement that the district obtain the approval of the board before granting any such easement. Such approval may be given in the form of accepting a master plan for spoil disposal.

(f) Districts which, prior to the enactment of this provision, have obtained patents to state owned lands or flats under Article 8225, Revised Civil Statutes of Texas, 1925,¹ or under any general or

special act, and which still claim title to any such lands or flats, may not hereafter dispose of any such lands or flats which were conveyed to them by the State of Texas and may not lease such lands or flats for a use for which districts are not authorized to lease their other lands; however, in the event a district possesses lands it finds to be in excess of its needs, it may sell such surplus lands or flats back to the State of Texas for the same consideration as originally paid to the state or exchange them for other lands with the State of Texas. It is further provided that the limitation on resale of lands or flats acquired from the State of Texas shall not prevent a district from exchanging such lands or flats for land, or rights in land, of an adjacent littoral owner for the purpose of adjusting or straightening the boundary between such lands. All such exchanges made after December 31, 1973, shall be subject to the approval of the School Land Board.

(g) Any district which, prior to the effective date of this Act has maintained, and which at the effective date of this Act is maintaining, any channel, dredged material disposal site, or other navigational aid or improvement on state owned lands to which the district holds no patent or lease from the state shall notify the General Land Office of the boundaries of such submerged land used by furnishing a map or other drawing acceptable to the General Land Office.

[Acts 1971, 62nd Leg., p. 593, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 555, ch. 237, § 2, eff. June 11, 1973; Acts 1975, 64th Leg., p. 801, ch. 310, § 3, eff. May 27, 1975.]

¹ Repealed.

Sections 4 and 5 of the 1975 amendatory act provided:

"Sec. 4. Venue for any action arising under this Act brought by or against the State of Texas, or involving the state's claim to title to land conveyed or sought to be conveyed under this Act, shall lie in a district court of Travis County, Texas.

"Sec. 5. Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

§ 61.118. Construction Contracts

(a) Except as provided in this section, the provisions of Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925, governing water control and preservation districts which relate to advertising for, awarding, and performing contracts for the construction of improvements and work authorized by law shall apply to construction contracts made under this subchapter.

(b) The bidder's deposit for a construction contract shall be five percent of the amount bid, and the contractor's bond shall be for not less than 25 percent of the contract price.

(c) The contract shall be signed by at least two of the commissioners, and the partial payments made under the contract shall not be more than 90 percent of the contract price.

(d) In case of public calamity or extreme emergency which makes it necessary to act at once to preserve the property of the district and its residents or in case of unforeseen damage to the property or equipment of the district, the provisions of this section requiring advertisement for bids under Article 7853, Revised Civil Statutes of Texas, 1925, may be waived. In any of these situations, the commission shall record in the minutes of the district that an emergency exists and the facts which gave rise to the emergency.

[Acts 1971, 62nd Leg., p. 594, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.119. Interest in Contract of Navigation District

If the county judge, a county commissioner, a member of the board or the commission, or the engineer shall directly or indirectly become interested in a contract for work to be done by the district or in any fee paid by the district, which would allow him to receive any money consideration or other thing of value except in payment of services as provided by law, on conviction he shall be confined in jail for not less than six months nor more than one year.

[Acts 1971, 62nd Leg., p. 594, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.120. Laws Governing Certain Functions of District

Chapter 3, Title 128, Revised Civil Statutes of Texas, 1925, relating to eminent domain, employment and duties of the district engineer, cooperation with the federal government, and the director's annual report shall apply to this chapter.

[Acts 1971, 62nd Leg., p. 594, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 61.121 to 61.150 reserved for expansion]

SUBCHAPTER E. PORT FACILITIES

§ 61.151. Authority to Operate and Develop Port Facilities

(a) A district created for the development of deep-water navigation which includes a city with a population of more than 100,000, according to the last preceding federal census, may operate and develop ports and waterways inside the district and extending to the Gulf of Mexico.

(b) The district may acquire, purchase, take over, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, light-erage, land, towing facilities, and other facilities or aids incident to or necessary to the operation or development of ports and waterways.

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.152. Petition

(a) If the board decides to exercise the rights, powers, and authority provided in this subchapter, it shall certify this desire to the commissioners court and shall submit a petition requesting that an election be held.

(b) The commissioners court shall schedule a hearing on the petition not less than 30 nor more than 60 days after the date of the petition. The hearing may be held at any place designated by the commissioners court.

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.153. Hearing: Testimony

Any person who may be affected may appear before the board on the day of the hearing and contest the necessity, advisability, or practicability of the election and may offer testimony in favor of or against the election.

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.154. Election Order

After the hearing, if the board determines that the election should be held, the commissioners court shall order an election to determine whether or not the district should adopt the rights, powers, and authority provided in this subchapter. The order shall include the date on which the election will be held.

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.155. Ballots

The ballots for the election shall be printed to provide for voting for or against the following proposition: "The development of the port by the navigation district."

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.156. Election Expense

The district shall pay the expense of the election.

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.157. Declaration of Results

If the result of the election favors the development of a port by the district, the commissioners court shall declare the result and shall enter in the minutes of the commissioners court the following declaration:

"Commissioners Court _____ County, Texas, _____ term A.D. _____, in the matter of the petition of the navigation board, requesting that the right, power, and authority be granted to the navigation district to develop the port of _____ (enter the name of the municipality). Be It Known, that at an election called for

that purpose in the district, held on the _____ day of _____ A.D. _____, a two-thirds majority of the electors voting on the proposition voted to develop port facilities.

"Now, Therefore, It is considered and ordered by the commissioners court that the district is authorized to proceed with the development of the port as authorized by law."

[Acts 1971, 62nd Leg., p. 595, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.158. Appointment of Commissioners

(a) If the provisions of this subchapter are adopted by a district, the district shall be managed, governed, and controlled by a commission composed of five commissioners, who shall be subject to the supervision and control of the board.

(b) Two of the commissioners shall be appointed by a majority of the city council of the municipality having a population of 100,000 or more, and two of the commissioners shall be appointed by a majority of the commissioners court.

(c) The chairman of the commission shall be the fifth member and shall be elected by majority vote of the city council and commissioners court meeting in joint session called by the county judge.

[Acts 1971, 62nd Leg., p. 596, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.159. Term of Office: Removal: Succession

(a) Except for the original appointments, each commissioner shall serve for a term of two years and until his successor is qualified.

(b) One of the original appointees of the city council and one of the commissioners court shall serve for one year. The other original appointees shall serve for two years.

(c) Each commissioner shall serve his full term unless removed by the authority which appointed him. He may be removed for malfeasance, nonfeasance in office, inefficiency, or other sufficient cause.

(d) If a vacancy occurs through death, resignation, or other reason, the vacancy shall be filled in the manner provided for making the original appointment.

[Acts 1971, 62nd Leg., p. 596, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.160. Qualifications; Compensation; Authority

(a) Each commissioner shall be a freehold property taxpayer and a qualified elector in the district.

(b) Each commissioner shall execute a bond and shall subscribe the required oath.

(c) Each commissioner is entitled to receive the compensation provided by the board.

(d) A majority of the commissioners shall have the authority to act, and all acts of the commission are subject to the supervision of the board.

[Acts 1971, 62nd Leg., p. 596, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.161. Eminent Domain

(a) The district may exercise the power of eminent domain.

(b) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code.

[Acts 1971, 62nd Leg., p. 596, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.162. Lease and Rental of Facilities

A district may acquire and take over, by lease or rental agreements, for a period of not less than 25 years, the docks, wharves, buildings, railroads, land, improvements, and other facilities already provided, constructed, or owned by any incorporated municipality situated within the district only with the consent of the lawful authorities of the municipality and on terms mutually agreed on by the district and the municipality.

(1) No agreement for the use, acquisition, or operation of the property or facilities of the municipality by the district shall be for a lease or rental value which is more than the annual net revenue derived or to be derived by the district after payment of the expenses of operation and maintenance of the property and facilities.

(2) The district shall have no supervision or control over the property or facilities owned, controlled, or constructed by the municipality until agreement for the lease and rental of the property by the district has been made.

(3) A district that is leasing land or facilities from a municipality may purchase or acquire the property in the manner provided in this subchapter.

(4) The commission and the officials of the municipality shall be authorized to enter into an agreement stating the land and facilities to be acquired, the amount agreed on as the purchase price, and the terms of the sale.

[Acts 1971, 62nd Leg., p. 597, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.163. Unimproved Land

(a) A district which acquires, leases, or takes over unimproved land owned or controlled by any incorporated municipality, may pay for the use, rental, or hire of the land a price or rental value to be fixed by the commission.

(b) If the commission fails or is unable to agree on terms and conditions for the use and rental of the unimproved land, then the district, through the power of eminent domain, may condemn the land or

parts of the land which it thinks the interest of the district requires.

[Acts 1971, 62nd Leg., p. 597, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.164. Franchises

(a) The district may grant franchises to persons or corporations on property owned or controlled by the district if the franchises are granted for purposes consistent with the provisions of this subchapter.

(b) No franchise shall be granted for longer than 30 years nor shall a franchise be granted except on the affirmative vote of a majority of the commissioners at three separate meetings of the commission which meetings may not be closer together than one week.

(c) No franchise shall be granted until after the franchise in its final form is published in full at the expense of the applicant, once a week for three consecutive weeks in a daily newspaper of general circulation published inside the district.

(d) The franchise shall require the grantee to file his or their written acceptance within 30 days after the franchise is finally approved.

(e) Nothing in this section shall be construed as preventing the district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter.

[Acts 1971, 62nd Leg., p. 597, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 15, eff. May 13, 1971.]

§ 61.165. Franchise Election

If the commission determines that a proposed franchise should be submitted to a vote of the people, it shall so certify to the commissioners court, and the commissioners court shall order an election on the matter at the earliest legal time.

[Acts 1971, 62nd Leg., p. 598, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.166. Ballots

(a) The ballot shall explain the nature of the franchise sufficiently to identify it.

(b) The ballots shall be printed to provide for voting for or against the following proposition: "The franchise."

[Acts 1971, 62nd Leg., p. 598, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.167. Election Result

If at the election a majority of those voting approve the franchise, it shall be granted. If those voting do not approve the franchise, it shall have no force and effect.

[Acts 1971, 62nd Leg., p. 598, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.168. Petition Protesting Franchise

The franchise may be suspended from taking effect if, before the date when the franchise is granted, a petition signed by qualified voters of the district equal to 10 percent of the total vote cast in the last general election for state officers is presented to the commissioners court protesting the enactment or granting of the franchise. Immediately after the petition is filed, the commissioners court shall order an election on the proposed franchise. The election shall be governed by the provisions of Sections 61.164 and 61.165.

[Acts 1971, 62nd Leg., p. 598, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.169. Contracts

The provisions governing the award of contracts by districts shall apply in all cases consistent with the provisions of this subchapter except that in case of emergency contracts may be let by the commission for not more than \$5,000 without advertisement for bids. In case of urgent necessity or present calamity, advertisement for bids may be waived.

[Acts 1971, 62nd Leg., p. 598, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 804, ch. 299, § 1, eff. Aug. 29, 1977.]

§ 61.170. Authority to Incur Debt

(a) The district may issue bonds for the purposes stated in Section 61.151 of this code and for the purpose of

- (1) acquiring necessary land, rights-of-way, or dumping grounds;
- (2) extension or improvement of belt railway lines; or
- (3) construction of improvements, wharves, docks, or other facilities or aids to navigation.

(b) The obligations may be secured by liens on the property acquired, constructed, or improved. Available revenue may be pledged as additional security.

(c) The district may borrow funds for current expenses and may evidence the debt by warrants payable not later than the close of any calendar year for which the loans are made. The warrants shall never exceed the anticipated revenue.

[Acts 1971, 62nd Leg., p. 598, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.171. Bonds

(a) On compliance with the provisions of this subchapter the district may issue bonds to pay for the improvements and facilities and to acquire the property authorized in this subchapter.

(b) The district also may issue bonds to purchase wharves, docks, warehouses, bunkering facilities, belt railroads, land to be used for port purposes and development, or other facilities constructed or owned by the municipality.

(c) An election shall be held to approve the issuance of the bonds, and the bonds shall be issued in the manner provided by this chapter for issuing other bonds.

(d) The outstanding bonds and the additional bonds may not amount to more than 10 percent of the assessed value of real property in the district as shown by the last annual assessment made for the county and state.

[Acts 1971, 62nd Leg., p. 599, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.172. Financing Purchases

(a) The commission may have issued in the manner provided in this chapter bonds of the district in an amount that represents the purchase price of the land or facilities less any outstanding bonds previously issued by the municipality.

(b) The bonds shall be issued, registered, and sold in the same manner as other bonds of the district, and the proceeds shall be paid to the municipality.

(c) If the municipality has outstanding bonds, the district shall assume payment of these bonds and interest, and the commissioners court shall levy a tax sufficient to pay the interest due and the principal due at the maturity of the bonds. The taxes shall be collected as other taxes are now collected, and payment shall be made to the city by the commission on or before the due dates of interest and principal for the sole purpose of paying the interest on and principal of the outstanding bonds.

(d) The municipality shall not be released from any obligation to the owners and holders of any outstanding bonds issued on account of the land or facilities purchased.

(e) The municipality shall not levy, assess, and collect any tax for interest and sinking fund unless the payment from the district shall fail in whole or in part. In the event of such failure, the municipality shall levy and collect the tax necessary to discharge the interest and meet the principal of the outstanding bonds and shall continue to do so until the amounts are paid. Also, the municipality may collect any and all amounts paid on account of the district from the district and in event of the continued failure to make the payments by the district, the municipality may take back the facilities.

[Acts 1971, 62nd Leg., p. 599, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.173. Election on the Purchase of Facilities

(a) No bonds shall be issued or tax levied until the question of purchase of the facilities is submitted to a vote of the people in the district.

(b) In addition to the requirement for submitting bonds to a vote, the notice of election shall include:

- (1) a copy of the agreement;
- (2) the amount of outstanding bonds;
- (3) the amount of bonds sought to be issued by the district; and

(4) the amount of taxes required to be levied.

(c) The election shall be called and held in the same manner as other elections for bonds, and the ballots shall provide for voting for or against the proposition: "The purchase of municipal facilities and the issuance of bonds and levy of a tax to pay for the bonds."

(d) If the election should carry by a two-thirds vote of the electors voting at the election, then the proposition shall be declared carried and the bonds shall be issued and sold, and the necessary taxes levied in accordance with the provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 599, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.174. Employees; County Auditor, Duties and Compensation

(a) The commission may employ all persons necessary for the construction, maintenance, operation, and development of the business and facilities of the district and may prescribe their duties and fix their compensation.

(b) The county auditor, as auditor for the district having large port facilities, shall make such additional reports and perform such accounting services in addition to those now required by law as may be reasonably incident to the proper conduct of the business of the district.

(c) Compensation for the county auditor who shall act under this section shall be determined by the judge of the district court or courts having jurisdiction in the county after a hearing with respect to the amount and value of the services performed. The amount shall be paid monthly from funds of the navigation district, and the maximum amount which may be allowed by the district judge for the services shall not be more than the amount now being paid.

[Acts 1971, 62nd Leg., p. 600, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.175. Powers

(a) A district operating under this subchapter shall have all the rights, powers, and authority granted by this chapter and shall have all the authority granted by general or special law to navigation districts.

(b) A district operating under this subchapter shall also have the fullest powers consistent with the state constitution for the regulation of wharfage and of all facilities relating to the port, waterways, and district.

(c) The district may assess and collect charges for the use of all facilities acquired or constructed in accordance with the provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 600, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.176. City Police Powers

Nothing in this subchapter shall repeal or affect the police powers of any municipality inside the district, or any law, ordinance, or regulation authorizing and empowering the municipality to exercise the powers relating to any navigable stream or aids to navigation and facilities in a navigation district, not in conflict with this subchapter.

[Acts 1971, 62nd Leg., p. 600, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 61.177 to 61.210 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

§ 61.211. Maintenance Fund

(a) After the district is created all expenses necessarily incurred after the petition was filed in connection with the creation, establishment, and maintenance of the district shall be paid out of the construction and maintenance fund of the district.

(b) The fund shall consist of all money received from the sale of bonds and all other amounts received by the district from any source, except tax collections applied to the sinking fund and payment of interest on the navigation bonds.

[Acts 1971, 62nd Leg., p. 601, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.212. District Depository

(a) Within 30 days after the commissioners are appointed, the commission shall select a depository for the district in the manner provided by law for the selection of a county depository.

(b) The depository selected by the commission shall serve as the depository for the district for two years and until its successor is selected and has qualified.

[Acts 1971, 62nd Leg., p. 601, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.213. District Treasurer's Duties

(a) The district treasurer shall keep an account of all money received by him for the district and paid out on behalf of the district.

(b) The district treasurer shall not pay out any money except on a voucher signed by the chairman of the commission or two of the commissioners or by the commissioners court.

(c) The district treasurer shall preserve in the files all orders for payment of money and shall submit a correct account to the commission or the commissioners court of all matters relating to the financial condition of the district on their request.

[Acts 1971, 62nd Leg., p. 601, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 61.214 to 61.230 reserved for expansion]

SUBCHAPTER G. BOND AND TAX PROVISIONS

§ 61.231. Issuance of Bonds

When the commission determines the cost of the proposed improvements, the expenses incident to the improvements, and the cost of maintenance of the improvements, it shall certify to the commissioners court the amount of bonds necessary to be issued. The commissioners court, at a regular or special meeting, shall issue an order directing the issuance of bonds for the district in the amount certified which shall not be more than the amount authorized by the election.

[Acts 1971, 62nd Leg., p. 601, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.232. Limitation on Bond Issue

Outstanding bonds and additional bonds which are authorized may not be more than one-fourth of the assessed value of the real property in the district, as shown by the last tax roll for the district.

[Acts 1971, 62nd Leg., p. 601, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 61.233. Requisites of Bonds

(a) All bonds issued under the provisions of this subchapter shall be issued in the name of the district, signed by the county judge, and attested by the county clerk under the seal of the commissioners court.

(b) The bonds shall be issued in such denominations and payable at such time or times, not more than 40 years from their date, as the commissioners court considers expedient.

(c) All provisions of Chapter 57 of this code governing the approval, registration, and validity of bonds of levee improvement districts shall apply to bonds issued under this subchapter.

(d) The commissioners court or the board shall require a record to be kept of the bonds by the district treasurer the same as for bonds of levee improvement districts.

[Acts 1971, 62nd Leg., p. 602, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.234. Sale of Bonds

(a) After the bonds are registered, the chairman of the commission shall offer them for sale and shall sell the bonds for the best price possible.

(b) Money received from the sale of the bonds shall be paid immediately to the district treasurer, and he shall deposit it to the credit of the district.

[Acts 1971, 62nd Leg., p. 602, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.235. Chairman's Bond

Before the chairman of the commission may sell the bonds, he shall execute a good bond, payable to the county judge and his successors, in an amount fixed by the commission, conditioned on the faithful discharge of his duties. The bond shall be approved by the county judge.

[Acts 1971, 62nd Leg., p. 602, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.236. Tax Levy

(a) When bonds have been approved, the commissioners court annually shall levy and have assessed and collected improvement taxes sufficient to pay the interest on the bonds and to provide a sinking fund to redeem the bonds at maturity.

(b) The commissioners court shall also at the time of the levy of taxes for county purposes, levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 10 cents on each \$100 valuation.

(c) The commission shall determine a rate within the 10-cent limit as the necessary amount for the maintenance, operation, and upkeep of the district and its improvements. The rate shall be certified to the commissioners court by the commission.

(d) Taxes shall be levied on all property inside the district.

[Acts 1971, 62nd Leg., p. 602, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.237. Assessment and Collection of Taxes

The tax assessor and collector of each county in the district shall assess and collect district taxes.

[Acts 1971, 62nd Leg., p. 602, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 61.238. Additional Bond Issue

(a) If the proceeds of the original bonds are insufficient to complete the proposed improvements or construction, or if the commission decides to undertake further construction or improvements or requires additional funds with which to maintain the existing improvements, it shall certify to the commissioners court the necessity for an additional bond issue, stating:

- (1) the amount required;
- (2) the purpose of the additional bonds;
- (3) the rate of interest on the bonds; and
- (4) the term of the bonds.

(b) The commissioners court, on receipt of this information, shall issue the bonds, unless the amount previously authorized has been exhausted, in which case the commissioners court shall first order an election on the issuance of the bonds to be held inside the district at the earliest possible legal time.

(c) The ballots for the issuance of additional bonds shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

[Acts 1971, 62nd Leg., p. 603, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 61.239. Sinking Fund Investments

The commissioners court may invest the sinking fund in county, municipal, district, or other bonds approved by the attorney general.

[Acts 1971, 62nd Leg., p. 603, ch. 58, § 1, eff. Aug. 30, 1971.]

CHAPTER 62. ARTICLE XVI, SECTION 59, NAVIGATION DISTRICTS

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SUBCHAPTER A. GENERAL PROVISIONS

§ 62.001. Definitions

As used in this chapter:

- (1) "District" means a navigation district operating under the provisions of Article XVI, Section 59, of the Texas Constitution.
- (2) "Commission" means the navigation and canal commission.
- (3) "Commissioner" means a navigation and canal commissioner.
- (4) "Board" means the navigation board.
- (5) "County of jurisdiction" means the county in which the district or the greater amount of acreage of the district is located.

[Acts 1971, 62nd Leg., p. 603, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 62.002 to 62.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT

§ 62.021. Creation of District

A navigation district may be created in the manner prescribed by this subchapter under Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 603, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.022. Composition

A district may include within its boundaries all or part of villages, towns, cities, road districts, drainage districts, irrigation districts, levee districts, other improvement districts, and municipal corporations of any kind but may not include the territory of more than three counties or parts of three counties.

[Acts 1971, 62nd Leg., p. 604, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.023. Petition

(a) Any person may present a petition to the commissioners court in the county of jurisdiction, at a regular or special session, requesting the creation of a district.

(b) The petition shall be signed by 25 of the property taxpaying electors who reside inside the boundaries of the proposed district. If there are less than 75 property taxpaying electors who reside inside the boundaries of the proposed district, the petition shall be signed by one-third of them.

(c) The petition shall include:

- (1) a request that the district be created;
- (2) the boundaries of the district accompanied by a map;
- (3) the general nature of the proposed improvements;
- (4) an estimate of the probable cost of the improvements; and
- (5) the name of the district, which shall include the name of the county.

(d) The petition shall be accompanied by an affidavit of the petitioners' qualifications.

[Acts 1971, 62nd Leg., p. 604, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.024. Deposit

At the time the petition is filed with the commissioners court, the petitioner shall deposit \$500 in cash with the clerk of the commissioners court. The clerk shall keep the deposit until after the result of the election to create the district is declared and entered in the record by the commissioners court.

[Acts 1971, 62nd Leg., p. 604, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.025. Date of Hearing

(a) On presentation of the petition, the commissioners court of the county of jurisdiction shall set it for a hearing at the regular term of the commissioners court or at a special session called for that purpose. The hearing shall be held not less than 30 nor more than 60 days from the day the petition is presented.

(b) If the hearing is required by Section 62.026 of this code, to be held by the navigation board, the commissioners court shall set the hearing at the regular meeting place of the commissioners court not less than 30 nor more than 60 days from the day the petition is presented without reference to any term of the commissioners court.

[Acts 1971, 62nd Leg., p. 604, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.026. Hearing Before the Board

If the boundaries of a proposed district include all or part of a city or cities acting under special charter granted by the legislature, the hearing on the petition shall be held before the board.

[Acts 1971, 62nd Leg., p. 604, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.027. Notice of Hearing

(a) The commissioners court shall order the clerk to post a copy of the petition together with the order of the commissioners court in five public places in the county, one of which shall be the courthouse door and four of which shall be in different places inside the limits of the proposed district. The notice shall be posted not less than 20 days before the time set for the hearing.

(b) If the district is composed of more than one county, a copy of the petition together with the order shall be posted at the courthouse door of each county in which any portion of the proposed district is located, and four copies shall be posted at four other places inside the included territory of each county.

(c) The clerk shall receive \$1 as compensation for posting each notice and five cents a mile for each mile necessarily traveled in posting the notices. [Acts 1971, 62nd Leg., p. 605, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.028. Hearing on Petition

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections and other matters relating to creating a district and in all subsequent proceedings.

(b) Any person who has taxable property in the proposed district or who may be affected by the creation of the district may appear at the hearing and contest or support the creation of the district, offer testimony for or against the boundaries, show that the proposed improvements would or would not be of any public utility and would or would not be practicable and feasible, present evidence of the probable cost of the improvements, or present any other matter relating to the district.

(c) The commissioners court or navigation board may adjourn the hearing from day to day, and judgments or decisions rendered by the commissioners court or the board are final except as otherwise provided by this chapter.

[Acts 1971, 62nd Leg., p. 605, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.029. Findings

(a) If the commissioners court or the board finds that the improvements would be feasible and practicable and would be a public benefit and utility and approves the boundaries as set out in the petition, it shall compute the amount of money necessary for the improvements and all incidental expenses and shall determine whether to issue bonds for the full amount or for a smaller amount in the first instance.

(b) The commissioners court or the board shall specify:

- (1) the amount of bonds to be issued;
- (2) the length of time the bonds will run; and
- (3) the rate of interest.

(c) The findings and specifications together with a map of the district shall be recorded in the minutes of the commissioners court or the board.

(d) If the commissioners court or the board does not approve the proposed boundaries of the district, it shall define the boundaries it considers correct. Before any change is made in the boundaries of the proposed district, notice shall be given and a hearing held as provided in Sections 62.027 and 62.028 of this code.

(e) If the commissioners court or the board finds that the improvements are unnecessary and would not be practicable or feasible and would not be a public benefit or utility, it shall enter these findings in the minutes and shall dismiss the petition at the cost of the petitioners. However, the dismissal of a petition does not prevent or conclude the presentation of a similar petition at a later date.

[Acts 1971, 62nd Leg., p. 605, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.030. Election Order

(a) If the commissioners court or the board finds in favor of the petitioners for the creation of the district, the commissioners court of the county of jurisdiction shall order an election to be held inside the proposed district at the earliest legal time.

(b) The order of the court shall provide for submitting to the electors residing in the proposed district the question of whether or not the district will be created and whether or not proposed bonds will be issued and a tax levied sufficient to pay the interest and provide a sinking fund sufficient to redeem the bonds at maturity.

(c) The order shall specify:

- (1) the amount of bonds to be issued;
- (2) the length of time the bonds will run; and
- (3) the rate of interest.

[Acts 1971, 62nd Leg., p. 606, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.031. Notice of Election

(a) The clerk of the commissioners court shall prepare notice of the election and shall post the notice for 30 days before the day set for the election.

(b) The notice shall be posted in the same places specified in Section 62.027 of this code.

(c) The notice shall state:

- (1) the time and place of holding the election;
- (2) the proposition to be voted on; and
- (3) the purpose for which the bonds are to be issued and the amount of the bonds.

(d) The notice shall contain a copy of the order of the court ordering the election.

[Acts 1971, 62nd Leg., p. 606, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.032. Ballot

The ballot shall be printed to provide for voting for or against the proposition: "The creation of the navigation district and the issuance of bonds and levy of a tax for the payment of the bonds."

[Acts 1971, 62nd Leg., p. 606, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.033. Conduct of Election

(a) The commissioners court shall issue an order creating and defining the voting precincts in the proposed district and shall name polling places within the precincts. In designating the polling places, the commissioners court shall take into consideration the convenience of the voters in the proposed district.

(b) The commissioners court shall select and appoint the judges and other necessary officers of election.

[Acts 1971, 62nd Leg., p. 606, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.034. Canvass of Returns

(a) Immediately after the election, the election officers shall make returns of the result and return the ballot boxes to the clerk of the commissioners court of jurisdiction.

(b) The clerk shall deliver the boxes and the returns of the election to the commissioners court of jurisdiction at its next regular or special session.

(c) At that session, the commissioners court shall canvass the returns of the election.

[Acts 1971, 62nd Leg., p. 607, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.035. Declaration of Result

If a majority of the votes favor creating the district, issuing bonds, and levying a tax, the commissioners court shall declare the result and enter it in the minutes of the commissioners court as follows:

"Commissioners court of _____ County, Texas, _____ term A.D. _____, in the matter of the petition of _____ and _____ others requesting the creation of a navigation district, issuance of bonds, and levy of a tax in the petition described and designated by the name of _____ Navigation District. Be it known that at an election called for that purpose in the district, held on the _____ day of _____ A.D. _____, a majority of the electors voting voted in favor of the creation of the navigation district, the issuance of bonds, and the levy of a tax. Now, therefore, it is considered and ordered by the commissioners court that the navigation district, be and the same is hereby established by the name of _____ Navigation District, and that bonds of the district in the amount of \$_____ be issued, and a tax of _____ cents on the \$100 valuation, or so much thereof as may be necessary to be levied

upon all property within the navigation district, whether real, personal, mixed, or otherwise, sufficient in amount to pay the interest on the bonds and provide a sinking fund to redeem that at maturity, and that if the tax shall at any time become insufficient for these purposes it shall be increased until it is sufficient. The metes and bounds of the district are as follows: (Give metes and bounds)."

[Acts 1971, 62nd Leg., p. 607, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.036. Expenses

(a) If the result of the election favors the creation of the district, the clerk shall return the \$500 deposit required by Section 62.024 of this code to the signers of the original petition, their agents or their attorney.

(b) If the result of the election is against the creation of the district, the clerk shall pay out of the \$500 deposit on vouchers signed by the county judge, all costs and expenses relating to the proposed district up to and including the election. The balance, if any, of the \$500 shall be returned to the signers of the original petition, their agents, or their attorney.

[Acts 1971, 62nd Leg., p. 607, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 62.037 to 62.060 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 62.061. Navigation Board

(a) The navigation board shall include the members of the commissioners court and the mayor and aldermen or commissioners of the included city or cities acting under special charter granted by the legislature. If there is only one city or part of one city acting under special charter granted by the legislature inside the proposed district and if the charter of the city at any time authorizes the city council or city board of commissioners to be greater in number than the members of the commissioners court, the number of aldermen or city commissioners who are entitled to sit and vote as members of the board along with the mayor will be limited to that number which equals the number of members of the commissioners court. The aldermen or city commissioners entitled to act as members of the board shall be determined by the members of the city council or city board of commissioners among themselves.

(b) The county judge, and in his absence the mayor, shall preside at meetings of the board and each member of the board, including the presiding officer, is entitled to a vote.

(c) A majority of the members of the board constitute a quorum, and action of a majority of the quorum shall control.

(d) The county clerk shall enter the proceedings of the board in a book kept for that purpose, and the book shall be available for public inspection.

[Acts 1971, 62nd Leg., p. 607, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.062. Appointment of Initial Commissioners

(a) After the creation of the district, the commissioners court or board shall appoint three navigation and canal commissioners who shall compose the navigation and canal commission.

(b) After the initial commissioners on the navigation and canal commission complete their terms, subsequent commissioners shall be elected.

[Acts 1971, 62nd Leg., p. 608, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.063. Election of Commissioners

(a) Commissioners shall be elected on the second Saturday in July of each odd-numbered year at an election ordered by the commission.

(b) The secretary of the commission shall give notice of the election by posting at least three copies of the notice at three public places inside the district or by publishing the notice for 20 days before the election in a newspaper with general circulation in the district.

[Acts 1971, 62nd Leg., p. 608, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.0631. Appointment of Commissioners

(a) Instead of electing commissioners as provided in Section 62.063 of this code, the commissioners court or board may appoint three navigation and canal commissioners to serve on the commission.

(b) The commissioners shall hold office for a term of two years and until their successors are appointed and have qualified.

(c) Commissioners may be removed from office by a majority of the commissioners court or the board for malfeasance or nonfeasance in office.

(d) Successors to members of the commission shall be appointed by a majority vote of the commissioners court or the board.

[Acts 1971, 62nd Leg., p. 1771, ch. 518, § 18, eff. May 31, 1971.]

§ 62.064. Qualifications of Commissioners

Each person who is appointed or elected commissioner shall be a resident of the proposed navigation district and shall be an elector of the county.

[Acts 1971, 62nd Leg., p. 608, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.065. Term of Office

Commissioners shall hold office for staggered terms of six years and until their successors are elected and have qualified.

[Acts 1971, 62nd Leg., p. 608, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.066. Vacancies

(a) A vacancy on the commission shall be filled by the remaining members of the commission.

(b) If two or more vacancies on the commission occur at the same time, a special election may be called on petition signed by 50 electors.

(c) Notice of the election shall be given by publishing or posting notice for at least 20 days before the election.

(d) The petition for the election shall include the names of the judges and clerks of the election, and the judges and clerks shall jointly canvass the returns, declare the result, and issue certificates of election to the successful candidates.

[Acts 1971, 62nd Leg., p. 608, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.067. Removal from Office

(a) A commissioner may be removed from office for malfeasance or nonfeasance in office by unanimous vote of the commissioners court or the board after a hearing held according to law.

(b) Appeal from a judgment of removal may be taken to a district court of the county in which the commissioner resides. The court shall try the case de novo.

[Acts 1971, 62nd Leg., p. 609, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.068. Oath of Commissioners

(a) Before each commissioner begins to perform his duties, he shall take and subscribe before the county judge of the county of jurisdiction an oath to discharge faithfully the duties of his office without favor or partiality and to render a true account of his activities to the commissioners court of the county of jurisdiction or the board whenever required to do so.

(b) The oath shall be filed by the clerk of the commissioners court and preserved as part of the records of the district.

[Acts 1971, 62nd Leg., p. 609, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.069. Bond of Commissioners

Before a commissioner begins to perform his duties, he shall execute a good and sufficient bond for \$1,000, payable to the county judge of the county of jurisdiction for the use and benefit of the

district and conditioned on the faithful performance of his duties.

[Acts 1971, 62nd Leg., p. 609, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.070. Compensation of Commissioners

Each commissioner shall receive for his services the compensation determined by the commissioners court of the county of jurisdiction.

[Acts 1971, 62nd Leg., p. 609, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.071. Organization of Commission

(a) The commission shall organize by electing one of the members chairman and one secretary.

(b) Two of the commissioners constitute a quorum. A concurrence of two is sufficient in all matters relating to the business of the district.

[Acts 1971, 62nd Leg., p. 609, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.072. Two-County Districts; Appointment of Commission

(a) In a district composed of land in two or more counties, the commissioners court of the county of jurisdiction by a majority vote shall appoint one commissioner. The commissioners court of the other county included in whole or in part within the district shall appoint by a majority vote a second commissioner. The two commissioners courts shall appoint the third commissioner at a joint meeting of the two commissioners courts called and presided over by the county judge of the county of jurisdiction.

(b) Notice in writing of the joint meeting of commissioners courts shall be given by mail or delivered in person at least two days before the day set for the meeting.

(c) Each of the county judges and county commissioners composing the commissioners courts of both counties shall be entitled to one vote in appointing the third commissioner. A majority vote of those present at the meeting shall be sufficient to make the appointment.

(d) On the termination of the term of office of each commissioner or in case of vacancy, a successor shall be appointed by the same commissioners court which appointed the commissioner whose place is being filled.

(e) Except for the matters expressly provided for in this section, two-county districts are subject to all other provisions of this subchapter.

[Acts 1971, 62nd Leg., p. 609, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.073. District Treasurer

The county treasurer of the county of jurisdiction shall be treasurer of the district.

[Acts 1971, 62nd Leg., p. 610, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.074. Treasurer's Bond

(a) The county treasurer shall execute a good and sufficient bond, payable to the commissioners, in an amount equal to twice the amount of funds he will hold at any time as treasurer of the district. The commissioners shall estimate the sum to be used as a basis for computing the amount of the required bond. The bond shall be conditioned for the faithful performance by the treasurer of his duties for the district and must be approved by the commissioners.

(b) When any bonds are voted by the district, the county treasurer, before receiving the proceeds from the sale of the bonds, shall execute an additional good and sufficient bond, payable to the commissioners, in an amount which is twice the amount of bonds issued. This additional bond shall be conditioned and approved in the same manner as the first but shall not be required after the treasurer has disbursed the proceeds of the bond issue.

[Acts 1971, 62nd Leg., p. 610, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.075. Treasurer's Compensation

The county treasurer shall be allowed as compensation for his services as treasurer of the district the amount determined by the commissioners. The compensation may not exceed the percentage authorized by law for his services as county treasurer.

[Acts 1971, 62nd Leg., p. 610, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.076. District Engineer

(a) The commission may employ a competent engineer who shall serve at the will of the commission.

(b) The district engineer shall receive the compensation determined by the commission.

[Acts 1971, 62nd Leg., p. 610, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.077. Assistant Engineers and Employees; Counsel; Salaries and Fees

(a) The commission may employ assistant engineers and other employees which may be necessary.

(b) The commission may employ counsel to represent the district in the preparation of any contract, to conduct any proceedings in or out of court, and to be the legal adviser of the commission on such terms as may be agreed upon by the commission.

(c) The amount of compensation for employees and fees of counsel shall be determined by the commission.

[Acts 1971, 62nd Leg., p. 611, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.078. Suits; Judicial Notice

(a) A district established under this chapter may, by and through the commission, sue and be sued in all courts of this state in the name of the district.

(b) All courts of this state shall take judicial notice of the establishment of all districts.

[Acts 1971, 62nd Leg., p. 611, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 62.079 to 62.100 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**§ 62.101. Purposes of District**

A district may be created under this chapter to provide, in or adjacent to its boundaries, for:

- (1) the improvement, preservation, and conservation of inland and coastal water for navigation;
- (2) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; and
- (3) any other purposes necessary or incidental to the navigation of inland and coastal water or in aid of these purposes, as stated in Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 611, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.102. Districts as Governmental Agencies

All districts created under this chapter shall be governmental agencies and bodies politic and corporate with the powers of government and with the authority to exercise the rights, privileges, and functions which are essential to the accomplishment of those purposes.

[Acts 1971, 62nd Leg., p. 611, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.103. Duties of County Officials

The powers and duties conferred by this chapter on the county judge, members of the commissioners court, the mayor and aldermen or commissioners of cities, the county clerk, and other officers are made a part of the legal duty of those officials. Unless otherwise provided in this chapter, these persons shall exercise and perform these powers and duties without additional compensation.

[Acts 1971, 62nd Leg., p. 611, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.104. Duties of District Engineer

It shall be the duty of the district engineer:

- (1) to make all necessary surveys, examinations, investigations, maps, plans, and drawings with reference to proposed improvements;
- (2) to make estimates of the cost of proposed improvements;
- (3) to supervise the work of improvement; and

(4) to perform all duties which may be required of him by the commission.

[Acts 1971, 62nd Leg., p. 612, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.105. Right-of-Way

The commission may by gift, grant, purchase, or condemnation acquire the necessary right-of-way and property of any kind for all necessary improvements contemplated by this chapter.

[Acts 1971, 62nd Leg., p. 612, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.106. Condemnation Proceedings

(a) The district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through any and all public and private land necessary:

- (1) for the improvement of any river, bay, creek, or stream;
- (2) for the construction and maintenance of any canal or waterway; and
- (3) for any and all purposes authorized by this chapter.

(b) Condemnation proceedings instituted under Subsection (a) of this section shall be instituted under the direction of the commission and in the name of the district. The assessment of damages shall be in conformity with the laws of the State of Texas for condemnation and acquisition of rights-of-way by railroads.

(c) No appeal from the finding and assessment of damages by the commissioners shall have the effect of causing a suspension of work by the commission in prosecuting the work of improvement in all of its details.

(d) No right-of-way may be condemned through any part of an incorporated city or town without the consent of the lawful authorities of that city or town.

(e) A district created under this chapter may elect to take advantage of the condemnation procedure provided in Subchapter F of Chapter 51 of this code.

[Acts 1971, 62nd Leg., p. 612, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.107. Acquisition of Land

(a) Any district created under this chapter may acquire by gift, purchase, or condemnation and may own land adjacent or accessible to the navigable water and ports developed by it which may be necessary or required for any and all purposes incident to or necessary for the development and operation of the navigable water or ports within the district, or may be necessary or required for or in aid of the development of industries on the land.

(b) The district may lease any part of the acquired land to any individual or corporation and may charge for the lease reasonable tolls, rents, fees, or other charges. The district may use the proceeds

both for the maintenance and operation of the business of the district and for the purpose of making the district self-supporting and financially solvent and returning the construction costs of the improvements within a reasonable period.

(c) The acquisition of land for the purposes included in this section and the operation and industrial development of ports and waterways are a public purpose and a matter of public necessity.

[Acts 1971, 62nd Leg., p. 612, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.108. Entry on Property

The commissioners and the engineers of a district together with all necessary teams, help, tools, and instruments may go on any land inside the district to examine the land and to make plans, surveys, maps, and profiles without subjecting themselves to the action of trespass.

[Acts 1971, 62nd Leg., p. 613, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.109. Bids

(a) Any person, corporation, or firm which desires to bid on the construction of any work advertised under Section 62.110 of this code shall, on application to the commission, be furnished the survey, plans, and estimates for the work.

(b) All bids or offers for the work shall be in writing, sealed, and delivered to the chairman of the commission together with a certified check for at least five percent of the total amount of the bid.

(c) If a bid is accepted but the bidder refuses to enter into a proper contract, the deposit required by Subsection (b) of this section shall be forfeited to the district.

(d) Any and all bids may be rejected at the discretion of the commission.

(e) A district may take advantage of the bid procedure in Sections 63.168-63.170 of this code by passing a simple resolution and entering it in its minutes.

[Acts 1971, 62nd Leg., p. 613, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.110. Notice of Bids

Notice that a contract is to be awarded shall be given by publishing notice once a week for two consecutive weeks in one or more newspapers with general circulation in the state and by posting notice for at least 14 days in five public places in the county of jurisdiction, one of which shall be the courthouse door and at least two of which shall be inside the district.

[Acts 1971, 62nd Leg., p. 613, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 805, ch. 299, § 2, eff. Aug. 29, 1977.]

§ 62.111. Award of Contract

(a) All contracts for improvements, except those carried out and performed by the government of the United States, shall be awarded by the commission to the lowest and best responsible bidder.

(b) Nothing in this section shall prevent the making of more than one improvement. Where more than one improvement is to be made, a contract may be awarded separately for each improvement or one contract may be awarded for all the improvements.

[Acts 1971, 62nd Leg., p. 613, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.112. Interest in Contracts

No county judge or county commissioner of any county in a district, board member, or district engineer may be directly or indirectly interested for himself or as agent for another in a contract for the construction of work to be performed by the district.

[Acts 1971, 62nd Leg., p. 614, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.113. Form of Contracts

All contracts made by the commission shall be in writing and signed by the contractors and at least two of the commissioners. A copy of the contract shall be filed with the county clerk.

[Acts 1971, 62nd Leg., p. 614, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.114. Bond of Contractor

(a) The party, firm, or corporation to whom a contract is awarded under Section 62.111 of this code shall execute a bond, payable to the commission, for twice the amount of the contract price, conditioned on faithful performance of the obligations, agreements, and covenants of the contract and that in default of the performance he will pay to the district all damages sustained by reason of the default.

(b) The bond shall be approved by the commission.

[Acts 1971, 62nd Leg., p. 614, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.115. Supervision of Work; Report

(a) Unless done under the supervision of the United States, all work contracted for by the commission shall be done under the supervision of the district engineer.

(b) After work is completed according to a contract awarded by the commission, the district engineer shall make a detailed report of the work to the commission. The report shall show whether or not the contract has been fully complied with and if not, in which particular the contractor has failed to comply.

[Acts 1971, 62nd Leg., p. 614, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.116. Inspection of Work; Payment

(a) The commission shall inspect the progress of work being done under a contract, and on completion of the contract, the commission shall draw a warrant on the county treasurer payable to the contractor or his assignee for the amount of the contract price. The warrant shall be paid out of the construction and maintenance fund of the district.

(b) If the commission considers it advisable, it may contract for work to be paid for in partial payments as the work progresses. The partial payments may not exceed in the aggregate eighty percent of the total amount to be paid under the contract. The amount of work completed at the time of the partial payment shall be shown by a certificate of the district engineer.

(c) Nothing in this section shall affect the provisions of this chapter providing for the construction of any improvements by the United States.

[Acts 1971, 62nd Leg., p. 614, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 16, eff. May 31, 1971.]

§ 62.117. Annual Report

(a) The commission shall make an annual report of its official acts and file it with the clerk of the commissioners court on or before January 1 of each year.

(b) The report shall include in detail:

- (1) the kind, character, and amount of work done in the district;
- (2) the cost of the work;
- (3) the amount paid out on order and for what purpose paid; and
- (4) other data necessary to show the condition of improvements made under the provisions of this chapter.

[Acts 1971, 62nd Leg., p. 614, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.118. Cooperation with United States

(a) If a river, creek, stream, bay, canal, or waterway to be improved is navigable or the proposed improvement is of a nature which requires the permission or consent of the United States, the commission may obtain the required permission or consent of the United States.

(b) Instead of or in addition to employing an engineer as provided in Section 62.076 of this code the commission may:

- (1) adopt any survey of a river, creek, canal, stream, bay, or waterway previously made by the United States;
- (2) arrange for surveys, examinations, and investigations of the proposed improvement; and
- (3) arrange for supervision of the work of improvement by the United States.

(c) The commission may cooperate and act with the United States in any and all matters relating to

the construction and maintenance of canals and the improvement and navigation of navigable rivers, bays, creeks, streams, canals, and waterways.

(d) The authority to cooperate shall extend to surveys, work, or expenditures of money made or to be made either by the commission or by the United States.

(e) The United States may aid in all such matters, and the commission shall have authority to consent to the United States entering on and taking management and control of the work where necessary or permissible under the laws, regulations, and orders of the United States.

[Acts 1971, 62nd Leg., p. 615, ch. 58, § 1, eff. Aug. 15, 1971.]

§ 62.119. Preference Lien; Waiver; Enforcement

(a) If a district leases, rents, furnishes, or supplies water to any person, association of persons, water improvement district, or corporation for the purpose of irrigation, the district shall have, without regard to contract, a preference lien superior to every other lien on the crop or crops raised on the land which is irrigated.

(b) If any district obtains a water supply under contract with the United States, the board of directors of the district may, by resolution entered in the minutes and with consent of the secretary of the interior, waive the preference lien, in whole or in part.

(c) For the enforcement of the lien provided in Subsection (a) of this section, all districts are entitled to all the rights and remedies prescribed by Title 84, Revised Civil Statutes of Texas, 1925, as amended,¹ for the enforcement of the lien between landlord and tenant.

(d) The authority granted by this section shall be cumulative of, and in addition to, the authority granted by other laws.

[Acts 1971, 62nd Leg., p. 615, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ Civil Statutes, art. 5222 et seq. (repealed; see, now, Property Code, § 54.001 et seq.).

§ 62.120. Contract for and Lease of Water System

(a) A district may enter into operating contracts and leases with cities and other governmental subdivisions for the operation of the portions of the district's water system which are designated by the board.

(b) To the extent that the proceeds of revenue bonds were used to acquire the portion leased, the annual payments paid by the lessee to the district shall be in a sum which is sufficient to permit the district to pay the proportionate part of the principal, interest, reserves, and other requirements provided by the bond proceedings on any revenue bonds which were issued to acquire the leased properties.

(c) Bonds issued to acquire, improve, enlarge, or extend leased properties may mature serially or otherwise not more than 50 years from their date of issue.

[Acts 1971, 62nd Leg., p. 1625, ch. 452, § 2, eff. May 26, 1971.]

[Sections 62.121 to 62.150 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

§ 62.151. Construction and Maintenance Fund

(a) The construction and maintenance fund shall include money received from the sale of bonds and all other sources except tax collections placed in the sinking fund to pay the principal of and the interest on bonds.

(b) After the original petition is filed, all expenses necessarily incurred in connection with the creation, establishment, and maintenance of the district shall be paid from the construction and maintenance fund.

[Acts 1971, 62nd Leg., p. 616, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.152. Warrants

The commission may draw warrants:

- (1) to pay for legal services;
- (2) to pay the salary of the engineer, his assistant, and any other employees; and
- (3) to pay all expenses incident to operation of the district.

[Acts 1971, 62nd Leg., p. 616, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.153. Duties of District Treasurer

The district treasurer shall:

- (1) open an account for all funds received by him for the district and all district funds which he pays out;
- (2) pay out money on vouchers signed by the chairman of the commission, any two members of the commission, or the commissioners court, or any two of any number of persons delegated by the commission with authority to sign vouchers, provided that the commission may, in such delegation, limit the authority of such persons and may require that each furnish a fidelity bond in such amount as the commission shall specify and subject to commission approval;
- (3) carefully preserve all orders for the payment of money; and
- (4) render a correct account to the commissioners court of all matters relating to the financial condition of the district as often as required by the commissioners court.

[Acts 1971, 62nd Leg., p. 616, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1975, 64th Leg., p. 1915, ch. 618, § 1, eff. Sept. 1, 1975.]

Section 2 of the 1975 amendatory act provided:

"Any and all laws or parts of laws in conflict with the provisions of this Act are repealed to the extent of such conflict."

§ 62.154. Applicability of Sections 62.155-62.159

Sections 62.155-62.159 of this code apply to all revenue, income, money, funds, or increments except revenue derived from taxation which may result from the ownership and operation of the district's improvements and facilities. However, these sections do not apply to any of the following counties:

- (1) Matagorda;
- (2) Ford Bend;
- (3) Brazoria;
- (4) Chambers;
- (5) Galveston; and
- (6) Harris.

[Acts 1971, 62nd Leg., p. 616, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.155. Deposit in Banking Corporation

(a) Instead of depositing the revenue of the district in the manner provided by law for districts, the commission may deposit the revenue in a banking corporation in the manner provided in Section 62.156 of this code.

(b) On selection of a banking corporation by the commission under Subsection (a) of this section, revenue of the district held by anyone other than the selected banking corporation, on order of the commission, shall be deposited in the selected banking corporation to the credit of the district.

[Acts 1971, 62nd Leg., p. 616, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.156. Selection of Depository

(a) The commission shall select a banking corporation which will secure the deposit of the revenue pursuant to the statutes relating to county depositories insofar as applicable. "Commissioners court" and "county judge" as used in the statutes relating to county depositories shall mean the commission and the commission chairman respectively.

(b) The commission may select the banking corporation to serve as the depository for a period of not more than two years from the day of selection, and at least 60 days before the end of the period, the commission shall determine whether to continue to deposit district revenue as provided in this section or to deposit the revenue as provided in the general laws relating to navigation districts.

(c) If the commission decides to deposit district revenue under the general laws relating to navigation districts, it, at any time in the future, may elect to select a depository in the manner provided in this section.

[Acts 1971, 62nd Leg., p. 617, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.157. Payment of District Revenue

Revenue of the district which is deposited with the banking corporation may be paid out according to the terms and conditions agreed to by the district and the banking corporation.

[Acts 1971, 62nd Leg., p. 617, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.158. Audit of Revenue

(a) The commission of a district which deposits its revenue with a banking corporation shall, not later than March 1 of each year, have an audit made of the revenue of the district on deposit with the banking corporation for all or part of the preceding calendar year.

(b) The audit shall be made by the county auditor of the county of jurisdiction or by an independent certified accountant or firm of independent certified public accountants employed by the commission.

(c) The cost of the audit shall be paid by the commission out of available revenues.

(d) The audit shall be retained at the main office of the commission of the district and shall be available for public inspection at all reasonable times.

[Acts 1971, 62nd Leg., p. 617, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.159. Conflicts With Prior Bonds or Other Laws

If Sections 62.154–62.158 of this code conflict with the provisions of any bonds issued by a district and secured in whole or in part by a pledge of revenue, with the proceedings authorizing the bonds, or with any special act relating to one specific district, the bonds, proceedings, and special act shall control over these sections.

[Acts 1971, 62nd Leg., p. 617, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.160. Maintenance Tax

The commissioners courts of the respective counties inside each district may levy and have assessed and collected for the maintenance, operation, and upkeep of the district and the improvements constructed by the district an annual tax not to exceed 10 cents on the \$100 valuation on all property inside the district.

[Acts 1971, 62nd Leg., p. 617, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 62.161 to 62.190 reserved for expansion]

SUBCHAPTER F. BOND PROVISIONS**§ 62.191. Issuance of Navigation Bonds**

(a) After the commission determines the cost of proposed improvements, incidental expenses, and maintenance costs, it shall certify to the commissioners court of the county of jurisdiction the amount of bonds necessary to be issued.

(b) The commissioners court, at a regular or special meeting, shall issue an order directing the issuance of navigation bonds for the district in the amount so certified. The amount of bonds may not be more than the amount authorized by the election.

[Acts 1971, 62nd Leg., p. 618, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.192. Issuance of Additional Bonds

(a) If the proceeds of bonds issued by a district are insufficient to complete the proposed improvement or construction, if the commissioners decide to begin other and further construction or improvements, or if additional funds are required to maintain the improvements made, the commission shall certify to the commissioners court the necessity for an additional bond issue.

(b) Unless the amount previously authorized has been exhausted, the commissioners court shall issue the bonds.

(c) The certification to the court shall state:

- (1) the amount of bonds required;
- (2) the purpose of the bonds;
- (3) the rate of interest; and
- (4) the length of time for which the bonds are to run.

[Acts 1971, 62nd Leg., p. 618, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.193. Bond Election

(a) If the authorized amount of bonds is exhausted, the commissioners court shall order an election on the issuance of additional bonds to be held in the district at the earliest legal time.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) Notice shall be given, the election conducted, and the returns canvassed in the manner provided for the original bond election in Subchapter B of this chapter.

[Acts 1971, 62nd Leg., p. 618, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.194. Order for Bonds and Tax

If on the canvass of the vote it is determined that a majority of the votes cast at the election were in favor of the issuance of bonds and levy of tax, the commissioners court shall issue an order directing the issuance of the bonds and the levy of a tax.

[Acts 1971, 62nd Leg., p. 618, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.195. Form of Bonds

(a) Bonds issued under the provisions of this chapter shall be issued in the name of the district, signed by the county judge of the county of jurisdiction, and attested by the county clerk of the county

of jurisdiction with the seal of the commissioners court of the county of jurisdiction affixed to them.

(b) The bonds shall be issued in the denominations and payable at the time or times, not more than 40 years from their date, which may be considered most expedient by the commissioners court. [Acts 1971, 62nd Leg., p. 619, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.196. Duties of Attorney General

(a) Before the bonds are offered for sale, the district shall send to the attorney general:

- (1) a copy of the bonds to be issued;
- (2) a certified copy of the order of the commissioners court levying the tax;
- (3) a copy of the order of the commissioners court levying the tax to pay interest and provide a sinking fund;
- (4) a statement of the total bonded indebtedness of the district, including the series of bonds proposed and the assessed value of property for the purpose of taxation, as shown by the last official assessment by the district or, if the district has made no prior assessment, the last official assessment by the county; and
- (5) other information which the attorney general may require.

(b) The attorney general shall carefully examine the bonds in connection with the facts, the constitution, and the laws on the execution of the bonds.

(c) If as the result of the examination the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations on the district, he shall officially certify the bonds.

[Acts 1971, 62nd Leg., p. 619, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 62.197. Registration of Bonds

After the bonds have been examined by the attorney general and his certificate issued, they shall be registered by the comptroller in a book to be kept for that purpose, and the certificate of the attorney general shall be preserved in the record for use in the event of litigation.

[Acts 1971, 62nd Leg., p. 619, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.198. Validity of Bonds

(a) After the bonds have been approved by the attorney general and registered by the comptroller, they shall be held in every action, suit, or proceeding in which their validity is or may be brought in question prima facie valid and binding obligations.

(b) In every action brought to enforce collection of bonds or interest on them, the certificate of the attorney general, or a duly certified copy of it, shall be admitted and received as prima facie evidence of the validity of the bonds and the coupons attached.

(c) The only defense that can be offered against the validity of the bonds or coupons is forgery or fraud.

[Acts 1971, 62nd Leg., p. 619, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.199. Record of Bonds

(a) After bonds have been issued under the provisions of this chapter, the board shall procure and deliver to the treasurer of the county of jurisdiction a well-bound book in which a record shall be kept of all the bonds.

- (b) A record shall be kept in the book of:
 - (1) the bond numbers and amount of the bonds;
 - (2) the rate of interest;
 - (3) the date of issuance and the date when the bonds are due and where payable;
 - (4) the proceeds from the bonds;
 - (5) the tax levy to pay interest on and to provide a sinking fund for bond payment; and
 - (6) any payment of a bond.

(c) The book shall at all times be open to the inspection of interested parties, either taxpayers, bondholders, or otherwise, in the district.

(d) The county treasurer shall receive for his services in recording these matters the same fees which are allowed by law to the county clerk for similar records.

[Acts 1971, 62nd Leg., p. 620, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.200. Sale of Bonds

(a) After the bonds have been registered, the chairman of the commission shall offer the bonds for sale and shall sell the bonds on the best terms and for the best price possible. None of the bonds shall be sold for less than face par value and accrued interest.

(b) After money is received from the sale of bonds, it shall be paid to the county treasurer and he shall place it to the credit of the district.

[Acts 1971, 62nd Leg., p. 620, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.201. Chairman's Bond

Before the chairman of the commission may sell any bonds, he shall execute a good and sufficient bond, payable to the county judge or his successors in office. The bond shall be approved by the commissioners court and shall be for an amount not less than the amount of the bonds issued, and shall be conditioned on the faithful discharge of his duties.

[Acts 1971, 62nd Leg., p. 620, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.202. Taxes; Sinking Fund Investment

(a) After district bonds have been voted, the commissioners court shall levy and have assessed and collected on all property in the district taxes suffi-

cient in amount to pay the interest on the bonds and to annually deposit an amount in the sinking fund sufficient to discharge and redeem the bonds at their maturity.

(b) If advisable, the sinking fund shall from time to time be invested by the commissioners court in county, municipal, district, or other bonds which may be approved by the attorney general.

[Acts 1971, 62nd Leg., p. 620, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.203. Issuance of Refunding Bonds; Formalities

(a) A district which has outstanding bonds may, by order of the commissioners court of the county of jurisdiction and without submitting the proposition to an election, authorize and issue its refunding bonds for the purpose of retiring all or any part of its outstanding bonds.

(b) The refunding bonds may mature serially or otherwise in not more than 40 years from their date.

(c) The refunding bonds shall be executed in the name of the district by the county judge and county clerk under the seal of the commissioners court and shall in other respects have the details and be issued in the manner provided by the commissioners court in the order authorizing the bonds.

[Acts 1971, 62nd Leg., p. 620, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.204. Refunding Bonds Sold at Par

The refunding bonds shall be sold by the commission at not less than their par value, delivered to the holders of not less than a like par amount of the bonds of the district authorized to be refunded in exchange for the prior bond obligations, or sold in part and exchanged in part.

[Acts 1971, 62nd Leg., p. 621, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.205. Approval of Refunding Bonds by Attorney General

The refunding bonds shall be submitted to the attorney general for approval and shall be registered by the comptroller in the same manner and with the same effect as is now provided by law for the approval and registration of municipal bonds.

[Acts 1971, 62nd Leg., p. 621, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.206. Tax Levy for Refunding Bonds

(a) If a district issues refunding bonds, the district shall annually levy taxes on all taxable property in the district sufficient to pay interest on the bonds as it becomes due and to pay the principal of the bonds at maturity.

(b) In making the annual levies, the district may take into consideration estimated delinquencies based on tax collection experience over the preceding years and levy the taxes in an amount, after

deduction of estimated delinquencies, sufficient to pay principal and interest requirements and the cost of tax collection.

(c) In its discretion and so far as consistent with the rights of the holders of the bonds refunded, a district may pledge to the payment of the refunding bonds the proceeds of taxes levied for payment of the bonds refunded and delinquent at the time of the authorization of the refunding bonds, cash or securities in the sinking fund maintained for payment of the bonds refunded, or both.

[Acts 1971, 62nd Leg., p. 621, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.207. Authority of Sections 62.203-62.206

Sections 62.203-62.206 of this code shall, without reference to other laws, constitute full authority for the issuance of refunding bonds. No proceedings, publications, elections, or referendums other than those required in Sections 62.203-62.206 shall be necessary to the authorization and issuance of refunding bonds.

[Acts 1971, 62nd Leg., p. 621, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.208. Revenue Bonds

(a) A district may issue revenue bonds on the terms and under the provisions of Chapter 111, Acts of the 43rd Legislature, 1st Called Session, 1933, or Chapter 38, Acts of the 47th Legislature, Regular Session, 1941:¹

(1) to purchase, construct, improve, enlarge, extend, and repair dams, reservoirs, water rights, water wells, canals, pipelines, pumps, pump stations, land, easements, rights-of-way, and other property and facilities necessary to provide a water supply for the irrigation of land and for industrial, commercial, domestic, municipal, and other beneficial uses;

(2) to accomplish any of the purposes designated in the previously mentioned two acts; and

(3) for general improvement purposes without designating the improvement.

(b) If the bonds are issued for the purposes stated in Subsection (a)(1) of this section, the district may own and operate the facilities and sell and deliver water to any person. The properties and facilities, the uses for the water supply, and the purchasers of the water may be inside or outside the boundaries of the district but may not be inside the boundaries of any other previously created navigation district or flood control district.

(c) If the bonds are issued for general improvement purposes, the proceeds may be spent for any purpose designated in this section.

(d) As each installment of an authorized issue of bonds is prepared for delivery, the commission shall specify the particular purposes for which the proceeds of that installment will be spent.

(e) A district may enter into operating contracts and leases with responsible persons or corporations for the operation of those portions of the district's water distribution system which the commission may designate. In that case, the annual rentals to be paid to the district by the lessee shall be a sum sufficient to permit the district to meet its obligations for the payment of that proportionate part of any revenue bonds, including principal, interest, reserves, and other requirements provided in the bond proceedings, which were issued to acquire the leased properties.

[Acts 1971, 62nd Leg., p. 621, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ Civil Statutes, arts. 8247a and 8247d, respectively (repealed; see, now, § 60.101 et seq. and § 60.171 et seq.).

[Sections 62.209 to 62.250 reserved for expansion]

SUBCHAPTER G. TAX PROVISIONS

§ 62.251. Assessment and Collection of Taxes

The assessor and collector of each county in which the district is located shall assess and collect the taxes levied by the district in the county.

[Acts 1971, 62nd Leg., p. 622, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 62.252 to 62.259. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

[Sections 62.260 to 62.290 reserved for expansion]

SUBCHAPTER H. ANNEXATION

§ 62.291. Annexation Authority

A district created under this chapter or converted from a district created under Article III, Section 52, of the Texas Constitution, into a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution, may extend its boundaries and annex adjacent territory.

[Acts 1971, 62nd Leg., p. 624, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.292. Petition

Before territory is annexed to the district, a petition signed by 50 or a majority of the electors residing in the adjacent territory proposed to be annexed shall be presented to the commission, requesting an election in the adjacent territory to determine whether or not the territory will be annexed and whether or not it will assume its pro rata part of the outstanding bonded debt of the district.

[Acts 1971, 62nd Leg., p. 624, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.293. Scheduling Petition for Hearing; Notice

(a) After a petition is presented under Section 62.292 of this code, the commission shall set the petition for a hearing to be held within 10 days from the date of presentation of the petition.

(b) Notice of the hearing shall be posted at three public places in the territory proposed to be annexed for at least five days before the hearing on the petition. The notice shall include the time and place of the hearing and the boundaries of the territory proposed to be annexed.

[Acts 1971, 62nd Leg., p. 624, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.294. Hearing

The commission shall hold the hearing on the subject of annexation of adjacent territory by the district, and any person who has taxable property in the territory proposed to be annexed may appear in person or by counsel and offer testimony or argument for or against the inclusion of all or any part of the land proposed to be annexed.

[Acts 1971, 62nd Leg., p. 624, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.295. Election Order

If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed.

[Acts 1971, 62nd Leg., p. 625, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.296. Notice of Election

(a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

(1) shall give the time and place or places for holding the election;

(2) shall give the boundaries of the territory proposed to be annexed; and

(3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted.

[Acts 1971, 62nd Leg., p. 625, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.297. Ballots

The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district."; and "Assumption of a pro rata part of the bonded debt of the navigation district."

[Acts 1971, 62nd Leg., p. 625, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.298. Election Officials

The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election.

[Acts 1971, 62nd Leg., p. 625, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.299. Canvass of Vote; Entry of Order

(a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the assumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it be recorded in the real estate records of the county or counties in which the territory is located.

[Acts 1971, 62nd Leg., p. 625, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.300. Authority to Annex Other Districts

Except as otherwise provided by this subchapter, a district created under Article XVI, Section 59, of the Texas Constitution may be annexed and become a part of another adjacent district created under the

general law in the same manner as provided in Sections 62.292-62.299 of this code.

[Acts 1971, 62nd Leg., p. 626, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.301. Duties of Commission of Annexed District

If a district proposes to annex an adjacent district, the commission of the district proposed to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform the other duties and procedures provided in Sections 62.292-62.299 of this code.

[Acts 1971, 62nd Leg., p. 626, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.302. Certification of Election Results

If the election in a district proposed to be annexed results in a majority of the votes of the electors voting at the election favoring annexation, the commission of the district proposed to be annexed shall certify the election result together with the metes and bounds of the district to the commission of the annexing district.

[Acts 1971, 62nd Leg., p. 626, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.303. Hearing by Annexing District; Notice

(a) When the election result is certified to the commission of the annexing district, the commission of the annexing district shall conduct a hearing to determine whether or not it will be a benefit to the annexing district to annex the territory.

(b) The hearing shall be conducted after the commission has given five days' notice in some newspaper published in the annexing district.

(c) If it is found at the hearing that the annexation of the adjacent district would be a benefit to the territory of the annexing district, the commission shall enter an order in its minutes annexing the district and from and after the entry of the order, the adjacent district shall be a part of the annexing district with all rights and privileges of territory originally situated in the district.

[Acts 1971, 62nd Leg., p. 626, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.304. Assumption of Bonded Debt

(a) Unless a majority of the electors of each of the districts approves it, the annexing district and the district to be annexed may not assume the outstanding bonded debt of the other.

(b) Annexation shall in no way affect the outstanding debt or any other valid obligation of either the annexing district or the district to be annexed.

[Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.305. Levy of Taxes on Annexed District

The commission of the annexing district shall annually levy and collect sufficient taxes in the district to be annexed to discharge all valid outstanding obligations of the district to be annexed. [Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.306. Dissolution of Annexed District

From and after the entry of the order annexing the district, the annexed district shall be dissolved. All powers previously vested in the annexed district and the commission of the annexed district shall be vested, respectively, in the annexing district and the commission of the annexing district.

[Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.307. Annexation of Whole of Adjacent County

If the territory included inside the boundaries of the annexing district consists of all of a single county and the territory to be annexed consists of all of an adjacent county, the adjacent territory may be annexed in the manner provided in Sections 62.291-62.306 of this code, except the commissioners court of the county to be annexed shall:

- (1) conduct the hearing;
- (2) order the election;
- (3) canvass the returns of the election; and
- (4) perform all other duties provided by this subchapter for the commission of the annexing district.

[Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.308. Hearing

The commissioners court of the county to be annexed shall conduct the hearing at some place inside the county to be annexed.

[Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.309. Order of Election; Ballots

The commissioners court of the county to be annexed may order an election, as requested in the petition for hearing, on either or both propositions included in the ballot form in Section 62.297 of this code.

[Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.310. Certification of Election Result

If the proposition or propositions carries by a majority of the vote of the electors voting at the election, the commissioners court of the county to be annexed shall certify the election result to the commission of the annexing district.

[Acts 1971, 62nd Leg., p. 627, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.311. Hearing by Annexing District

After the certification of the election result, and after five days' notice in some newspaper published inside the annexing district, the annexing district shall conduct a public hearing to determine whether or not it would be a benefit to the annexing district to annex the adjacent county.

[Acts 1971, 62nd Leg., p. 628, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.312. Order of Annexation

If at the hearing it appears that annexation of the adjacent county would be a benefit to the annexing district, the commission shall enter an order in the minutes annexing the county. From and after the entry of the order, the county shall be a part of the annexing district with all rights and privileges of territory originally situated in the district and with the right of representation on the commission.

[Acts 1971, 62nd Leg., p. 628, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.313. Obligations not Affected; Pro Rata Assumption

(a) Except as provided in Subsection (b) of this section, annexation shall in no way affect the bonded debt or any other valid outstanding obligation of the annexing district.

(b) If the voters at the annexation election in the county annexed vote to assume a pro rata part of the bonded debt of the annexing district, pro rata assumption shall be binding. If that proposition is not approved by a majority of those electors voting in the election, the persons and property within the county annexed shall never be bound to the payment of any debt of the annexing district outstanding at the time of annexation.

[Acts 1971, 62nd Leg., p. 628, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.314. Additional Commission Members

(a) From and after the entry of the order of annexation, the commission shall be constituted as provided in this section.

(b) The commissioners court of the annexed county shall appoint two commissioners, both of whom shall be electors who reside in the district. The two commission members shall be additional members of the commission of the district and shall have the same duties and receive the same compensation as incumbent commission members.

(c) The additional commission members shall hold office for a term equal to and expiring with the terms of the incumbent commission members or, if the members of the commission are serving staggered terms, expiring with the term of the commission member whose term first expires.

(d) At the expiration of the terms of the additional commission members, the terms of all commission members shall be automatically terminated.

[Acts 1971, 62nd Leg., p. 628, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.315. Change of Membership of Navigation Board

(a) After the annexation, the board shall be composed of the county judges and commissioners courts of the county of the annexing district and of the annexed county.

(b) Each individual member of the board shall be entitled to a vote and a majority in number of the individuals composing the board shall constitute a quorum. The action of a majority of the quorum shall control.

[Acts 1971, 62nd Leg., p. 628, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.316. Permanent Commission Organization Following Annexation

(a) After the expiration and termination of the terms of commission members as provided for in Section 62.314 of this code, the commission shall be organized as provided by this section.

(b) The commission shall be managed, governed, and controlled by five commission members.

(c) The commissioners courts of the county of the annexing district and of the annexed county shall each, by majority vote, appoint two commission members for a term of two years.

(d) At the expiration of the term of office of each commission member, the commissioners court which appointed that member shall, by majority vote, appoint a successor for a term of two years.

(e) The fifth commission member shall be chairman and shall serve for a term of two years. He shall be selected by a majority vote of the board of the district and appointed by the board.

(f) If any vacancy occurs through the death, resignation, or otherwise of any commission member, it shall be filled as in the first instance by appointment for the unexpired term.

[Acts 1971, 62nd Leg., p. 629, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.317. Provisions Governing Commission

(a) Each commissioner appointed under Section 62.314 or 62.316 of this code shall be an elector of the district and shall serve his full term and until his successor is elected and has qualified unless sooner removed by the authority which appointed him for malfeasance or nonfeasance in office.

(b) Each commissioner shall execute a bond, take the oath, and have the powers and duties prescribed by the law applicable to the annexing district at the time of the annexation.

(c) Each commissioner is entitled to receive the compensation determined by the board.

(d) The commission, by majority vote, may execute all contracts and take all actions relating to governing the district.

[Acts 1971, 62nd Leg., p. 629, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 62.318. Law Governing District

(a) The only changes made in the organization and operation of an annexing district which annexes an adjacent county are those contained in this subchapter.

(b) Each district annexing an adjacent county shall continue after the annexation to be governed by and subject to all of the laws applicable to the annexing district at the time of annexation.

[Acts 1971, 62nd Leg., p. 629, ch. 58, § 1, eff. Aug. 30, 1971.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 63.001. Definitions

As used in this chapter:

- (1) "District" means a self-liquidating navigation district.
- (2) "Board" means the navigation board.
- (3) "Commission" means the board of navigation and canal commissioners.
- (4) "Commissioner" means a member of the commission.

[Acts 1971, 62nd Leg., p. 630, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 63.002 to 63.020 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT

§ 63.021. Self-Liquidating Districts

(a) All navigation districts organized under the provisions of Article XVI, Section 59, of the Texas Constitution, and the provisions of Chapter 62 of this code, or organized under any local and special law enacted under the provisions of Article XVI, Section 59, of the Texas Constitution, which have voted bonds but have not issued or disposed of the bonds, and all districts organized under the provisions of this chapter are self-liquidating in character and may be made self-supporting and return the construction cost of the district within a reasonable period by tolls, rents, fees, assessments, or other charges other than taxation.

(b) The district shall be considered as coming originally within the scope of this chapter, and the proceedings in Sections 63.039-63.044 of this code are not required as a prerequisite to the exercise of the rights, powers, privileges, and benefits of this chapter.

[Acts 1971, 62nd Leg., p. 630, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.022. Creation

A district of the character provided in Section 63.021 of this code may be created as provided in this chapter to operate under the provisions of Article XVI, Section 59, of the Texas Constitution.

[Acts 1971, 62nd Leg., p. 630, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.023. Area Included in District

A district may include all or part of a village, town, city, road district, drainage district, irrigation district, levee district, other improvement district, conservation and reclamation district, or municipal corporation, but may not include more than all or parts of two counties.

[Acts 1971, 62nd Leg., p. 630, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.024. Petition to Create Single-County District

(a) To create a district located wholly in one county, a petition signed by 25 of the electors, or if there are fewer than 75 electors in the proposed district, by one-third of them, shall be presented at any regular or special session of the commissioners court of the county in which the land to be included in the district is located.

(b) The petition shall include:

- (1) a request for the establishment of a district;
- (2) a description of the boundaries of the proposed district, accompanied by a map;
- (3) a statement of the general nature of the improvements proposed;

(4) an estimate of the probable cost; and

(5) the designation of a name for the district which shall include the name of the county.

(c) A deposit of \$500 and an affidavit stating the qualifications of the petitioners shall accompany the petition.

[Acts 1971, 62nd Leg., p. 631, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.025. Petition to Create District in Two Counties

(a) If the proposed district is located in two counties, a petition of the nature provided in Section 63.024 shall be presented to the commissioners court of the county which includes the greater part of the district, and this county shall be the county of jurisdiction with relation to all matters concerning the district.

(b) The petition shall be signed by 25 residents in the territory of each county to be included in the proposed district or if there are fewer than 75 residents in the territory of either of the counties, then by one-third of the residents and shall be accompanied by a deposit of \$500.

(c) The name of the district shall include the name of the county which has jurisdiction.

[Acts 1971, 62nd Leg., p. 631, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.026. Navigation Board

(a) The navigation board shall include the county judge and the members of the commissioners court and the mayor and the aldermen or commissioners of the city or cities.

(b) A majority in number of the persons composing the board shall constitute a quorum, and the action of a majority of the quorum shall control.

(c) The board shall pass on the petition to create the district and the election to approve creation of the district with each individual member having one vote.

(d) The duties and powers of the county judge and members of the commissioners court, the mayor and aldermen or commissioners of cities, and the county clerk and other officers are a part of the legal duties of the officials which they shall perform without additional compensation, unless otherwise provided in this chapter.

[Acts 1971, 62nd Leg., p. 631, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.027. Hearing

At the same session the petition is presented, the commissioners court shall order a hearing to be held at a regular or special session of the commissioners court, not less than 60 days from the date the petition is presented.

[Acts 1971, 62nd Leg., p. 632, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.028. Notice of Hearing

(a) The commissioners court shall order the clerk to give notice of the date and place of the hearing by posting a copy of the petition and the order of the commissioners court at the courthouse door and at four other public places inside the boundaries of the proposed district.

(b) If the district is composed of more than one county, the notices provided in Subsection (a) of this section shall be posted in each county.

(c) The notices shall be posted not less than 20 days immediately preceding the day set for the hearing.

(d) The clerk is entitled to receive \$1 for each notice he posts and five cents a mile for each mile necessarily traveled to post the notices.

[Acts 1971, 62nd Leg., p. 632, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.029. Hearing by Navigation Board

(a) If the proposed district includes all or part of a city acting under special charter granted by the legislature, the hearing shall be held before the board at the regular meeting place of the commissioners court.

(b) The commissioners court shall order a hearing before the board not less than 30 nor more than 60 days from the day the petition is presented without reference to any term of the court, and notice of the hearing shall be given as provided in Section 63.028.

(c) The county clerk shall record the proceedings of the board in the book kept for that purpose, and this record shall be available for public inspection.

[Acts 1971, 62nd Leg., p. 632, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.030. Conduct of Hearing

(a) The commissioners court or the board has exclusive jurisdiction to hear and determine all contests and objections to the creation of the proposed district and all matters relating to the creation of the proposed district.

(b) The commissioners court or the board may adjourn the hearing from day to day, and all judgments or decisions shall be final unless otherwise provided in this chapter.

(c) Any person who has taxable property in the proposed district or who might be affected by creation of the district may appear at the hearing and support or oppose creation of the proposed district and may offer testimony relating to:

- (1) the necessity and feasibility of the proposed district;
- (2) the benefits to accrue from formation of the proposed district;
- (3) the boundaries of the proposed district; or

(4) any other matter concerning the proposed district.

[Acts 1971, 62nd Leg., p. 632, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.031. Findings

(a) If it appears at the hearing that the proposed improvements are feasible and practicable and would be a public benefit and utility, the commissioners court or the board shall make these findings and approve the boundaries stated in the petition, or if it does not approve the boundaries in the petition, the court or board shall define the boundaries of the district which are approved.

(b) Changes may not be made in the proposed boundaries until notice is given and a hearing held in the manner provided in this subchapter.

(c) If the commissioners court or board finds that the proposed improvement is not feasible or practicable, or that it would not be a public benefit or public utility and that the establishment of the district is unnecessary, the court or board shall make these findings and dismiss the petition at the cost of petitioners. Dismissal of the petition shall not prevent presentation of another petition at a later date.

(d) The commissioners court or the board shall enter all findings in its records or minutes, together with a map of the district if the boundaries in the petition are changed.

[Acts 1971, 62nd Leg., p. 632, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.032. Providing Funds for Proposed Improvements

(a) If the commissioners court or the board approves the boundaries in the petition or as changed and decides to grant the petition, it shall determine the amount of money necessary for the improvements and all expenses connected with the improvements and whether to issue bonds for the full amount or, in the first instance, for a less amount.

(b) The commissioners court or the board shall specify the amount of bonds to be issued, the maximum term for which the bonds will run, and the rate of interest.

[Acts 1971, 62nd Leg., p. 633, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.033. Election Order

(a) If the commissioners court or the board finds in favor of the creation of the district, the commissioners court of the county of jurisdiction shall order an election and submit to the electors residing in the district the proposition of whether or not the district shall be created and whether or not the bonds shall be issued and a tax levied sufficient to pay the interest and provide a sinking fund to redeem the bonds at maturity.

(b) The election order shall specify the amount of the bonds to be issued, the term for which the bonds will run, and the rate of interest.

[Acts 1971, 62nd Leg., p. 633, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.034. Notice of Election

(a) The clerk of the court of jurisdiction shall give notice of the election by posting notices at the courthouse door of the county in which the district is located and at four other public places in the proposed district.

(b) If the district is composed of more than one county, the notices shall be posted in each county.

(c) The notices shall be posted for 30 days immediately preceding the time set for the election.

(d) The notices shall include:

- (1) the time and place of the election;
- (2) the proposition to be voted on;
- (3) the purpose for which the bonds are to be issued;
- (4) the amount of the bonds; and
- (5) a copy of the election order.

[Acts 1971, 62nd Leg., p. 633, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.035. Ballots

The ballots for the election shall be printed to provide for voting for or against: "The navigation district and the issuance of bonds and the levy of a tax to pay for the bonds."

[Acts 1971, 62nd Leg., p. 634, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.036. Conduct of Election

The commissioners court shall create and define, by order, the voting precincts in the district and shall name convenient polling places in the precincts. It shall appoint the judges and other necessary election officials and shall hold the election at the earliest legal time.

[Acts 1971, 62nd Leg., p. 634, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.037. Returns of Election

(a) Immediately after the election, the officers holding the election shall make returns of the result to the commissioners court of jurisdiction and return the ballot boxes to the clerk of the court.

(b) The clerk shall keep the ballot boxes safely and deliver them, together with the returns of the election, to the commissioners court at its next regular or special session.

[Acts 1971, 62nd Leg., p. 634, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.038. Declaration of Result

The court shall canvass the vote and return at the session when it receives the ballot boxes and re-

turns of the election. If it finds that a majority of those voting at the election voted in favor of the proposition, the court shall declare the result of the election to be in favor of the district, issuance of the bonds, and the levy of the tax, and shall enter the following declaration in its minutes:

"Commissioners Court of _____ County, Texas, _____ term A.D. _____, in the matter of the petition of _____ and _____ and others praying for the establishment of a navigation district, and issuance of bonds and levy of taxes in said petition described and designated by the name of _____ Navigation District. Be it known that at an election called for the purpose in said district, held on the _____ day of _____ A.D. _____ a majority of the electors voting thereon voted in favor of the creation of said navigation district, and the issuance of bonds and levy of a tax. Now, therefore, it is considered and ordered by the court that said navigation district be, and the same is hereby established by the name of _____ Navigation District, and that bonds of said district in the amount of _____ dollars be issued, and a tax of _____ cents on the \$100, valuation, or so much thereof as may be necessary to be levied upon all property within said navigation district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds and provide a sinking fund to redeem that at maturity, and that if said tax shall at any time become insufficient for such purpose same shall be increased until same is sufficient. The metes and bounds of said district being as follows: (Giving metes and bounds)."

[Acts 1971, 62nd Leg., p. 634, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.039. Conversion of District

Any navigation district organized under the provisions of Article XVI, Section 59, of the Texas Constitution, or Article III, Section 52, of the Texas Constitution, and not originally within the scope of this chapter, may be converted into a self-liquidating district operating under this chapter in the manner provided in Sections 63.040-63.044 of this code.

[Acts 1971, 62nd Leg., p. 635, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.040. Resolution to Convert

(a) The commission, by resolution entered in the minutes, shall declare that in its judgment it is for the best interest of the district and will benefit the land and property in the district to operate under the provisions of this chapter, permitting the district to become self-liquidating and to return the construction cost within a reasonable period by means of tolls, rents, fees, assessments, or other charges other than taxation.

(b) The commission shall designate in the resolution the sections of this chapter under which the district wishes to operate.

[Acts 1971, 62nd Leg., p. 635, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.041. Notice

(a) Notice of the adoption of a resolution under Section 63.040 of this code shall be given by publishing the resolution in a newspaper with general circulation in the county or counties in which the district is located.

(b) The notice shall be published once a week for two consecutive weeks with the first publication not less than 14 full days before the day set for a hearing.

(c) The notice shall:

- (1) state the time and place of the hearing;
- (2) set out the resolution in full; and
- (3) notify all interested persons to appear and offer testimony for or against the proposal contained in the resolution.

[Acts 1971, 62nd Leg., p. 635, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.042. Hearing

The hearing may be adjourned from day to day until all interested persons have had an opportunity to appear and present testimony.

[Acts 1971, 62nd Leg., p. 635, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.043. Findings

(a) If at the hearing the commission finds that conversion of the district into a district operating under this chapter would serve the best interest of the district and would be a benefit to the land and property included in the district, it shall enter an order making this finding.

(b) If the commission finds that the conversion of the district would not serve the best interest of the district and would not be a benefit to the land and property included in the district, it shall enter an order against conversion of the district into one operating under this chapter.

(c) The adverse findings of the commission shall be final and not subject to appeal or review.

[Acts 1971, 62nd Leg., p. 635, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.044. Effect of Conversion

If the finding of the commission is favorable to the resolution, the commission shall have the same right, power, and authority to act under the provisions of this chapter adopted by the resolution as if the district had originally come within the scope of this chapter.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 63.045 to 63.080 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 63.081. Appointment of Commissioners

After a district is created, the commissioners court shall appoint three navigation and canal commissioners, whose duties are provided in this chapter.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.082. Qualifications

To be qualified for appointment as a commissioner, a person must be a resident of the district, a freehold property taxpayer, and a qualified elector of the county.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.083. Vacancies

All vacancies in the office of appointed commissioner occurring through death, resignation, or otherwise shall be filled by the remaining commissioners or, if only one commissioner remains, by the remaining commissioner and the district judge residing in the county in which a majority of the acreage of the district is located.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.084. Oath

In addition to the constitutional oath provided for county commissioners, before beginning to perform his duties each appointed commissioner shall take and subscribe before the county judge of the county of jurisdiction an oath to discharge faithfully the duties of his office without favor or partiality.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.085. Bond

Before beginning to perform his duties, each appointed commissioner shall execute a good and sufficient bond for \$1,000, payable to the county judge of the county of jurisdiction for the use and benefit of the district, conditioned on the faithful performance of his duties.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.086. Term of Office

Each commissioner shall hold office for four years and until his successor has qualified after appointment or election.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1983, 68th Leg., p. 5217, ch. 951, § 14, eff. Jan. 1, 1984.]

Section 15 of the 1983 amendatory act provides:

"Directors of districts covered by this Act who are elected in 1984 shall serve four-year terms. Directors who were scheduled to be elected in 1985 shall be elected in 1985 to serve a one-year term. Directors who are elected in 1986 shall serve for four-year terms."

§ 63.087. Optional Term of Office

(a) The commission may provide by resolution for six-year staggered terms of office for commissioners with the term of one commissioner expiring every two years.

(b) At the first election of commissioners after a resolution is adopted under this section, three commissioners shall be elected. After the commissioners have taken the oath of office and executed bonds, they shall draw lots to determine who will serve for a two-year term, who will serve for a four-year term, and who will serve for a six-year term.

(c) Successors to the commissioners elected under the provisions of Subsection (b) of this section shall serve for full six-year terms.

[Acts 1971, 62nd Leg., p. 636, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.088. Commission Organization and Quorum

The commission shall organize by electing one of their members chairman and one secretary. Two of the commissioners shall constitute a quorum and a concurrence of two shall be sufficient in all matters relating to the business of the district.

[Acts 1971, 62nd Leg., p. 637, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.089. Election of Commissioners

(a) An election shall be held in the district on the first Tuesday after the first Monday in November of each even numbered year to elect the three commissioners. However, the commissioners may, by adopting an order duly entered on the minutes, determine to hold the election on the first Tuesday after the first Monday in October of each even numbered year to elect the commissioners authorized by law.

(b) Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code), requiring that certain elections be held on specified uniform dates, does not apply to the election provided for in this section.

[Acts 1971, 62nd Leg., p. 637, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1984, ch. 612, art. 1, § 9, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1129, ch. 427, § 1, eff. June 14, 1973; Acts 1977, 65th Leg., p. 1978, ch. 791, § 1, eff. Aug. 29, 1977.]

§ 63.090. Placing Names of Candidates on Ballot

A candidate for commissioner must file an application with the secretary not later than 5 p. m. of the 31st day before the day of the election to have his name printed on the ballot. Also, a candidate's name may be placed on the ballot by petition of 20 or more qualified electors of the district filed with

the secretary by the deadline stated in the preceding sentence.

[Acts 1971, 62nd Leg., p. 637, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, § 2, eff. Aug. 29, 1977.]

§ 63.091. Polling Place

The commission shall designate the polling place or places in the election order. If more than one polling place is required, the board shall divide the district into election precincts, which may be changed from time to time.

[Acts 1971, 62nd Leg., p. 637, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.092. Election Officers

The commission shall appoint the election officers, consisting of one presiding judge, an assistant judge, and two clerks, when the election is ordered. Additional clerks may be appointed by the presiding judge when necessary.

[Acts 1971, 62nd Leg., p. 637, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.093. Notice of Election

(a) The notice of the election shall be signed by the president and secretary of the commission and shall contain a copy of the election order.

(b) The notice shall be published once a week for four consecutive weeks in a newspaper published in the district or, if a newspaper is not published in the district, in a newspaper located nearest to the boundaries of the district. The first publication shall be made not less than 32 days nor more than 46 days before the day of the election.

[Acts 1971, 62nd Leg., p. 637, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 1978, ch. 791, § 3, eff. Aug. 29, 1977.]

§ 63.094. Conduct of Election

(a) The election officers shall make and deliver the returns in triplicate. One copy shall be retained by the presiding judge, one shall be delivered to the chairman of the commission, and one shall be delivered to the secretary.

(b) The ballot boxes and other election records and supplies shall be delivered to the secretary at the office of the district. All boxes containing voted or mutilated ballots shall be preserved for six months, subject to the order of any court in which an election contest is filed. The ballot boxes shall be destroyed after six months unless a contrary order is entered by a court of competent jurisdiction.

(c) The commission shall meet and canvass the returns of the election not less than five full days nor more than seven days after the election. If the returns cannot be canvassed within seven days,

they shall be canvassed as soon as possible after seven days.

[Acts 1971, 62nd Leg., p. 638, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.095. Vacancies on Commission

(a) A vacancy in the office of elected commissioner shall be filled by appointment by the commission itself for the unexpired term.

(b) If two vacancies occur at the same time, the remaining commissioner shall call a special election to fill the vacancies.

(c) If the remaining commissioner fails to call a special election within 15 days after the vacancies occur, or if the third place is vacant also, the judge of the district court of the judicial district in which the district is located may order the election on the petition of any voter or creditor of the district. The district judge shall fix the date of the election, order the publication of notice of the election by the county clerk, and name the officers to hold the election. The returns of an election held by order of the district judge shall be made and filed in the office of the clerk of the district court, and the clerk shall declare the result of the election.

[Acts 1971, 62nd Leg., p. 638, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.096. Commissioner's Oath

Each commissioner shall subscribe an oath of office containing the applicable conditions provided by law for members of the commissioners court.

[Acts 1971, 62nd Leg., p. 638, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.097. Commissioner's Bond

(a) Each commissioner shall execute a good and sufficient bond for \$1,000, payable to the district, conditioned on the faithful performance of his duties.

(b) The commissioner's bond shall be approved by the commission and by the district judge of the district court which has jurisdiction over the territory of the district.

[Acts 1971, 62nd Leg., p. 638, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1973, 63rd Leg., p. 1129, ch. 427, § 2, eff. June 14, 1973.]

§ 63.098. Commissioner's Compensation

(a) Each commissioner shall receive a fee of not more than \$50 a day for each day of service necessary to the discharge of his duties, unless otherwise provided in accordance with Subsection (b) of this section.

(b) The commission may provide by an order entered in its minutes that compensation shall not be

paid for the commissioners' services for a period of more than two years from the date of the order.

[Acts 1971, 62nd Leg., p. 638, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1984, ch. 612, art. 1, § 10, eff. Sept. 1, 1971; Acts 1977, 65th Leg., p. 159, ch. 79, § 1, eff. April 25, 1977.]

§ 63.099. District Manager

(a) The commission may employ a general manager and give him full authority in the management and operation of the affairs of the district, subject only to the supervision of the commission.

(b) The commission shall fix the term of office and compensation of the manager.

[Acts 1971, 62nd Leg., p. 639, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.100. District Assessor and Collector

The commission shall appoint one person to the office of assessor and collector for the district. The assessor and collector shall be a qualified elector and a resident of the district.

[Acts 1971, 62nd Leg., p. 639, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.101. Deputy Assessor and Collector

The commission may appoint one or more deputies to assist the assessor and collector for a period of not more than one year.

[Acts 1971, 62nd Leg., p. 639, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.102. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 63.103. Deputy's Bond

The assistant or assistants to the assessor and collector appointed by the commission may or may not be required to furnish bond with conditions similar to those required of the assessor and collector.

[Acts 1971, 62nd Leg., p. 639, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.104. Compensation of Assessor and Collector and Deputy

The commission shall fix the compensation to be paid to the tax assessor and collector or any deputy.

[Acts 1971, 62nd Leg., p. 639, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.105. Engineer

The commission may employ a competent engineer whose term of office and compensation shall be determined by the commission.

[Acts 1971, 62nd Leg., p. 639, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.106. Legal Counsel

The commission may employ an attorney to represent the district in preparation of any contract, to conduct any proceeding in or out of court, to be the legal advisor of the commission, and to perform any other function considered necessary. The attorney shall be retained on the terms and for the fees which the commission determines and on which the parties agree.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.107. District Employees

(a) The commission may employ assistant engineers and other persons as it considers necessary for the construction, maintenance, operation, and development of the district, its business and facilities, and shall determine their term of office and duties, and fix their compensation.

(b) All employees may be removed by the commission.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.108. Bonds of Officers and Employees

(a) Each officer and employee charged with the handling of funds or property of the district shall furnish a good and sufficient bond for a sum sufficient to safeguard the district as determined by the commission. The bond shall be payable to the district and conditioned on the faithful performance of his duties and his accounting of all funds and property of the district coming into his hands.

(b) The bonds of other officers of the district shall be approved by the commission and shall be filed for record in the office of the district. The bonds shall be recorded in a book kept for that purpose in the office of the district, and the book shall be open to the inspection of the public during the office hours of the district.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.109. Payment of Compensation and Expenses

The commission may draw warrants to pay for legal services, for the salaries of the engineer, his assistant, or any other employees, and for all expenses incident and relating to the district.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.110. District Office

A regular office shall be maintained for the conduct of the business of the district at a place in the district designated by the commission.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.111. District Records

The commission shall keep a true account of its meetings and proceedings and shall preserve its minutes, contracts, notices, accounts, receipts, and records in a fireproof vault or safe.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.112. Court Actions

(a) A district established under this chapter may sue and be sued, by and through its commission, in any court in this state in the name of the district.

(b) The courts of this state shall take judicial notice of the establishment of the district.

[Acts 1971, 62nd Leg., p. 640, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 63.113 to 63.150 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**§ 63.151. Authority of District**

All districts created under this chapter are essential to the accomplishment of the provisions of Article XVI, Section 59, of the Texas Constitution, and are governmental agencies and bodies politic and corporate, with the powers of government and authority to exercise the rights, privileges, and functions conferred in this chapter and by the Texas Constitution.

[Acts 1971, 62nd Leg., p. 641, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.152. Purposes of District

The district may make improvements for:

- (1) the navigation of inland and coastal water;
- (2) the preservation and conservation of inland and coastal water for navigation;
- (3) the control and distribution of storm water and floodwater of rivers and streams in aid of navigation; or
- (4) any purpose stated in Article XVI, Section 59, of the Texas Constitution, necessary or incidental to the navigation of inland and coastal water.

[Acts 1971, 62nd Leg., p. 641, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.153. General Authority of District

A district may:

- (1) exercise all the rights, powers, and authority granted by this chapter and by the general and special laws relating to navigation districts;
- (2) exercise all powers relating to regulation of wharfage and facilities connected with waterways and ports inside the district to the fullest extent consistent with the Texas Constitution;
- (3) acquire, purchase, own, construct, enlarge, extend, repair, maintain, operate, develop, and regulate land, waterways, improvements, facili-

ties, or aids incident to or necessary in the proper operation and development of ports and waterways in the district, including wharves, docks, warehouses, commercial and industrial buildings, grain elevators, bunkering facilities, belt railroads, floating plants and facilities, lightering facilities, towing facilities, and all appurtenances;

(4) hire, rent, convey, lease, and otherwise make available to any person the improvements of the district;

(5) assess and collect charges for use of all facilities acquired or constructed in accordance with this chapter and apply the amounts collected for maintenance and operation of the business of the district, to make the district self-supporting and financially solvent, and to retire the construction cost of the improvements within a reasonable period;

(6) enter into valid and binding contracts to apply revenues, over and above the maintenance and operation costs, which are derived from sources other than taxation, to pay principal and interest on bonds;

(7) enter into contracts with the United States for loans and grants on terms and conditions necessary to comply with regulations and requirements of the United States under federal law; and

(8) issue bonds, notes, warrants, certificates of indebtedness, and other forms of obligation payable from revenues derived from improvements and pledge these revenues to the payment of the district's debts in the manner provided in Subchapter E of Chapter 60 of this code.

[Acts 1971, 62nd Leg., p. 641, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.154. Authority to Go on Land

The commission and the district engineer, together with all necessary teams, help, tools, instruments, implements, and machinery, may go on any land inside the district to examine the land and make plans, surveys, maps, and profiles without subjecting themselves to action for trespass.

[Acts 1971, 62nd Leg., p. 642, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.155. Acquisition of Property and Right-of-Way

The commission may acquire by gift, purchase, or condemnation proceedings the necessary right-of-way and property of any kind necessary for improvements contemplated by this chapter.

[Acts 1971, 62nd Leg., p. 642, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.156. Eminent Domain

(a) The district may exercise the power of eminent domain to condemn and acquire the right-of-way over and through any public or private land necessary to improve any river, bay, creek, or arm of the Gulf of Mexico for the construction and maintenance of any canal or waterway and for any other purpose authorized by this chapter.

(b) The condemnation proceedings shall be instituted under the direction of the commission and in the name of the district, and the damages shall be assessed in conformity with the laws for condemning and acquiring rights-of-way by railroads.

(c) No appeal from the finding and assessment of damages shall have the effect of suspending work by the commission in prosecuting the work of improvement in detail.

(d) No right-of-way can be condemned through any part of an incorporated city or town without the consent of the lawful authorities of the city or town.

[Acts 1971, 62nd Leg., p. 642, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.157. Authority over Improvements

A district may acquire, purchase, take over, construct, maintain, operate, develop, and regulate wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, literature,¹ lands, towing facilities, and all other facilities or aids incident to or necessary to the operation or development of ports or waterways inside the district extending to the Gulf of Mexico.

[Acts 1971, 62nd Leg., p. 642, ch. 58, § 1, eff. Aug. 30, 1971.]

¹ So in enrolled bill.

§ 63.158. Obtaining Consent of United States

If a river, creek, bay, stream, canal, or waterway which is to be improved is navigable or if the improvements are of a type which require the permission or consent of the United States, the commission may obtain the permission or consent of the United States.

[Acts 1971, 62nd Leg., p. 642, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.159. Cooperation with the United States

(a) The commission may cooperate and act with the United States in surveys, work, and expenditure of money in any matters relating to construction and maintenance of the canals and the improvement and navigation of navigable rivers, bays, creeks, streams, canals, and waterways.

(b) To the extent that the United States aids in these matters, the commission may agree and consent to the United States entering and taking management and control of the work insofar as necessary or permissible under the laws and regulations of the United States.

[Acts 1971, 62nd Leg., p. 643, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.160. Duties of Engineer

The engineer shall:

(1) make necessary surveys, examinations, investigations, maps, plans, and drawings relating to proposed improvements;

- (2) estimate the cost of improvements;
- (3) supervise the work of improvements; and
- (4) perform any duties which might be required by the commission.

[Acts 1971, 62nd Leg., p. 643, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.161. United States Performing Duties of Engineer

Instead of or in addition to employing an engineer, the commission may adopt any survey of a river, creek, canal, stream, bay, or waterway previously made by the United States and may arrange for surveys, examinations, and investigations of proposed improvements and for supervision of the work of improvement by the United States.

[Acts 1971, 62nd Leg., p. 643, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.162. District Order for Improvements

If the commission considers it in the best interest for the district to exercise the powers granted by Section 63.153 of this code or if the commission finds that additional improvements to those originally planned or constructed are necessary for navigation of or in aid of navigation of any river, creek, stream, bay, canal, or waterway, the commission shall make this finding in an order entered in the minutes and shall direct the engineer to make an estimate showing the character and cost of the improvements.

[Acts 1971, 62nd Leg., p. 643, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.163. Notice of Hearing

(a) After the commission's order is entered in the minutes, the commission shall publish notice once a week for three consecutive weeks in a newspaper published in the district. If no newspaper is published in the district, the notice shall be published in the newspaper published nearest to the district.

(b) The notice shall include a copy of the commission's order and shall designate a time and place for a hearing.

[Acts 1971, 62nd Leg., p. 643, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.164. Hearing on Improvements

(a) The commission shall hear evidence at the hearing, and any district taxpayer or interested person may present evidence.

(b) The commission may adjourn the hearing from day to day for a reasonable time so that all taxpayers and interested persons may be heard.

[Acts 1971, 62nd Leg., p. 644, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.165. Findings

(a) After the hearing is completed, the commission shall enter its order making findings as to whether or not the improvements and construction of the facilities is feasible and practicable and whether or not benefits will result to the public.

(b) If the findings are against the proposed improvements, no further action will be taken, but if the commission finds that the improvements are feasible and practicable and would be a public benefit, the district may issue bonds to pay for the necessary improvements and facilities.

[Acts 1971, 62nd Leg., p. 644, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.166. Bond Election

(a) An election shall be held to approve the issuance of the bonds.

(b) The ballots shall be printed to provide for voting for or against the proposition: "The issuance of bonds and the levy of a tax to pay for the bonds."

(c) The returns of the election shall be canvassed as provided in this chapter.

(d) If the canvass indicates that a majority of the electors voted in favor of the proposition, the commission shall issue an order directing the issuance of the bonds and the levy of a tax.

[Acts 1971, 62nd Leg., p. 644, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.167. Form of Bonds

(a) The bonds shall be issued in the manner that other bonds are issued under this chapter, and the amount of the bonds may not be more than the cost of the improvements estimated by the engineer.

(b) The bonds shall be issued in the name of the district and shall be signed by the president of the commission and attested by the secretary with the seal of the district attached.

(c) The bonds shall be issued in the denominations and payable at the times, not more than 40 years, considered most expedient by the board. Interest shall be payable annually or semiannually.

[Acts 1971, 62nd Leg., p. 644, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.168. Bids for Contract

(a) Before the commission enters into a contract requiring the expenditure of \$5,000 or more, it shall submit the proposed contract for competitive bids.

(b) The commission may reject any and all bids, and if the contract is for a public improvement, the successful bidder shall be required to give the statutory bonds required by Article 5160, Revised Civil Statutes of Texas, 1925.

(c) The contract shall be awarded to the lowest and best bidder.

[Acts 1971, 62nd Leg., p. 644, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1977, 65th Leg., p. 805, ch. 299, § 3, eff. Aug. 29, 1977.]

§ 63.169. Notice of Bids

(a) Notice of the time and place the contract will be awarded shall be published in one or more newspapers with general circulation in the state, one of which shall be a newspaper published in the county in which the district is located if a newspaper is published in the county.

(b) The notice shall be published once a week for two consecutive weeks before the time set for awarding the contract, with the first publication being made at least 14 days before the day for awarding the contract.

[Acts 1971, 62nd Leg., p. 645, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.170. Application of Certain Sections

The provisions of Sections 63.168-63.169 of this code do not apply to:

- (1) improvements carried out and performed by the United States;
- (2) calamities or emergencies which make it necessary to act at once to preserve the property of the district;
- (3) unforeseen damage to district property, machinery, or equipment or necessary emergency repairs to them; or
- (4) contracts for personal or professional services or work done by the district and paid for by the day as the work progresses.

[Acts 1971, 62nd Leg., p. 645, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.171. Procedure for Bids

(a) Any person desiring to bid on the construction of any work advertised shall, on application to the commission, be furnished at actual cost the survey, plans, and estimates for the work.

(b) Bids for the work shall be in writing, sealed, and delivered to the chairman of the commission, together with a certified check for at least five percent of the total amount of the bid. A bid bond in the amount of at least five percent of the total amount of the bid executed by a corporate surety duly authorized to do business in this state and payable to the district may be substituted in lieu of the certified check.

(c) If the bidder's bid is accepted but he refuses to enter into a proper contract and give the performance and payment bond required by Article 5160, Revised Civil Statutes of Texas, 1925, the certified check or bid bond shall be forfeited to the district.

(d) The commission may reject any and all bids.

[Acts 1971, 62nd Leg., p. 645, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1448, ch. 404, § 1, eff. May 26, 1971.]

§ 63.172. Formal Requirements of Contract

(a) A contract entered into by the district shall be in writing and signed by the contractors and the commissioners or any two of the commissioners.

(b) A copy of the contract shall be filed with the county clerk for reference.

[Acts 1971, 62nd Leg., p. 645, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.173. Contractor's Bond

The contractor shall execute an adequate bond payable to the commission in the amount of the contract price, conditioned that he will faithfully perform the obligations, agreements, and covenants of the contract and that if he defaults he will pay the district all damages sustained by reason of the default. The bond shall be approved by the commission.

[Acts 1971, 62nd Leg., p. 645, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.174. Interest in Contract

The members of the board and the engineer may not be directly or indirectly interested for themselves or as agents in a contract for the construction of a work to be performed by the district.

[Acts 1971, 62nd Leg., p. 645, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.175. Supervision by Engineer

(a) Unless done under the supervision of the United States, all work contracted for by the commission shall be done under the supervision of the district engineer.

(b) After the work is completed according to the contract, the engineer shall make a detailed report of the work to the commission showing whether or not the contract was fully complied with according to its terms and, if not, in what particulars it has not been complied with.

[Acts 1971, 62nd Leg., p. 646, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.176. Payment for Work

(a) The commission shall inspect the work being done during its progress, and on completion of the contract, the commission shall draw a warrant on the district depository in favor of the contractor or his assignee for the amount of the contract price. The warrant shall be paid from the construction and maintenance fund.

(b) If the commission considers it advisable, it may contract to pay for the work in partial payments as the work progresses, but the partial payments may not be more in the aggregate than 90

percent of the contract price of the total amount of work done under the contract. The amount of the work shall be shown by a certificate of the engineer.

(c) The provisions of this section do not apply to improvements carried out or performed by the United States.

[Acts 1971, 62nd Leg., p. 646, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1448, ch. 404, § 2, eff. May 26, 1971.]

§ 63.177. Commission Report

(a) The commission shall make an annual report of its activities and file it with the county clerk on or before January 1 of each year.

(b) The report shall show in detail:

(1) the kind, character, and amount of work done in the district;

(2) the cost of the work; and

(3) the amount paid on order, the purpose for which paid, and other data necessary to show the condition of improvements made under the provisions of this chapter.

[Acts 1971, 62nd Leg., p. 646, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.178. Franchises

(a) A district may grant franchises on property owned or controlled by the district to any person for purposes consistent with this chapter and may charge fees for the franchises.

(b) A franchise may be granted for a period of not more than 30 years.

(c) Before the franchise is granted, the commission must approve the franchise by a majority vote at three separate meetings held at least one week apart and must publish the franchise in full, at the expense of the applicant, once a week for three consecutive weeks in a newspaper published in the district.

(d) The franchise shall require the grantee to file his written acceptance within 30 days from the day the franchise is finally approved.

(e) Fees charged for a franchise may be used to pay interest on bonds or other securities issued by the district for construction of its improvements and to retire these bonds or other securities at maturity.

(f) This section shall not be construed to prevent a district from granting revocable licenses or permits for the use of limited portions of waterfront or facilities for purposes consistent with this chapter.

[Acts 1971, 62nd Leg., p. 646, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.179. Adjacent Land

(a) The district may own land adjacent or accessible to the navigable water developed by the district and may lease the land to any person and charge reasonable tolls, fees, or other charges.

(b) Proceeds from the tolls, fees, or other charges may be used for maintenance and operation of the business of the district, to make the district self-supporting and financially solvent, and to return the construction cost of the improvements within a reasonable period.

(c) The land may be located in whole or in part inside or outside the boundaries of any incorporated city, town, or village in this state, but land which is not included inside the boundaries of a city, town, or village at the time it is acquired by the district may not be annexed or included inside the boundaries of the city, town, or village without the written consent of the district evidenced by a resolution adopted by the commission.

[Acts 1971, 62nd Leg., p. 647, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.180. Issuance of Writs

A writ of mandamus shall issue from a court of competent jurisdiction to compel the commission to apply revenue in accordance with the terms of a contract with the United States, and an injunction may be issued to restrain the commission from violating the provisions of a contract with the United States.

[Acts 1971, 62nd Leg., p. 647, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.181. Peace Officers

The district may appoint peace officers to protect life and property in the district and the property of the district. The officers shall have the same rights, powers, and authority as policemen of a city or town.

[Acts 1971, 62nd Leg., p. 647, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1981, 67th Leg., p. 72, ch. 32, § 1, eff. April 15, 1981.]

§ 63.182. Effect on Police Powers

The provisions of this chapter shall not affect or repeal the police powers of any municipality inside the district or any law, ordinance, or regulation which authorizes the municipality to exercise police power over any navigable stream, aid to navigation, or facility for navigation in the district.

[Acts 1971, 62nd Leg., p. 647, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.183. Other Laws Governing District

The commission has the same rights, powers, and duties provided for commissioners in Articles 8248-8257, Revised Civil Statutes of Texas, 1925.

[Acts 1971, 62nd Leg., p. 647, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 63.184 to 63.220 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL PROVISIONS

§ 63.221. Construction and Maintenance Fund

(a) The construction and maintenance fund shall include money received from the sale of bonds and other sources except the tax and other collections deposited in the sinking fund and used to pay interest on the bonds.

(b) All expenses incurred in connection with the creation, establishment, and maintenance of the district after the original petition to create the district is filed shall be paid from the construction and maintenance fund.

[Acts 1971, 62nd Leg., p. 648, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.222. District Depository

The district depository shall be designated at the time, in the manner, and under the same regulations and laws as county depositories, and the district's funds shall be deposited in the depository.

[Acts 1971, 62nd Leg., p. 648, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.223. Warrants

District funds shall be handled under orders of the commission on warrants drawn for designated purposes, and no warrant may be paid unless it is signed by at least two members of the commission.

[Acts 1971, 62nd Leg., p. 648, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.224. Accounts and Records; Audit

(a) A complete book of all accounts and records shall be kept by the district.

(b) In January of each year or as soon after that time as practicable, the county auditor or, in the discretion of the commission, an independent certified public accountant or firm of independent certified public accountants shall be employed to make a complete audit of the books and records and make a report of the findings.

(c) The audit report shall be made in triplicate, and one copy shall be filed with the district office, one with the district depository, and one with the county auditor's office.

[Acts 1971, 62nd Leg., p. 648, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.225. Deposit

(a) When the petition to create the district is filed, it shall be accompanied by a \$500 deposit, which shall be held by the county clerk until the result of the election to create the district is declared and entered in the minutes of the commissioners court.

(b) If the result of the election favors the creation of the district, the county clerk shall return the \$500

deposit to the signers of the petition or their agent or attorney.

(c) If the result of the election is against the creation of the district, the county clerk shall pay the costs and expenses of the proposed district up to and including the election from the \$500 deposit on vouchers signed by the county judge and shall return the balance of the deposit, if any, to the signers of the petition or their agent or attorney.

[Acts 1971, 62nd Leg., p. 648, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.226. Debt

(a) The district may retire the original cost of construction of its improvements or pay for the cost of construction by borrowing money and pledging and mortgaging land, wharves, docks, warehouses, grain elevators, bunkering facilities, belt railroads, floating plants, lighterage, towing facilities, and other facilities or aids incident or necessary to the operation or development of ports or waterways.

(b) The district may issue its debentures or other evidences of debt secured by a mortgage for the length of time and a rate of interest of not more than eight percent a year. In addition, the district may secure the debentures, notes or other evidences of debt with bonds of the district.

[Acts 1971, 62nd Leg., p. 649, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.227. Retiring Debt

Debentures, notes, or other evidences of debt may be retired by rents, tolls, fees, or charges other than taxes. The debt also may be retired by assessments against taxable property in the district which is equitably distributed on the basis of benefits derived by the property from district improvements.

[Acts 1971, 62nd Leg., p. 649, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.228. Borrowing Money

(a) A district may borrow for any legal purpose from the United States or from any banking institution or other source not more than \$250,000 to meet temporary needs, and may issue notes or other short term obligations other than bonds which will mature in not more than 10 years from their date and may pledge any securities owned by them or their surplus revenues.

(b) A district, in the acquisition of land necessary for the development of its ports and waterways both industrial and otherwise, may execute purchase money notes securing same with liens on the land being acquired or with a pledge of surplus revenue, or with both. The notes may bear interest at the rate determined by the commission.

[Acts 1971, 62nd Leg., p. 1448, ch. 404, § 3, eff. May 26, 1971.]

[Sections 63.229 to 63.250 reserved for expansion]

SUBCHAPTER F. BOND PROVISIONS

§ 63.251. Levy of Tax

After bonds have been voted, the commission shall levy a tax on all taxable property in the district sufficient to pay principal of and interest on the bonds and shall annually levy and have assessed and collected on the taxable property of the district an amount sufficient to pay for the expense of assessing and collecting the taxes.

[Acts 1971, 62nd Leg., p. 649, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.252. Form of Bonds

(a) Bonds issued under the provisions of this chapter shall be issued in the name of the district and shall be signed by the chairman of the commission and attested by the secretary, with the district's seal affixed to each bond.

(b) The bonds shall be issued in the denominations and payable annually or semiannually at the time or times, not more than 40 years from their date, that the commission considers most expedient.

[Acts 1971, 62nd Leg., p. 649, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.253. Approval of Bonds by Attorney General

(a) Before bonds are offered for sale, the district shall present to the attorney general a certified copy of all the minutes of commission proceedings relating to the issuance of the bonds, including:

- (1) a copy of the notices of hearing and election, together with a certified return of each notice;
- (2) a certified copy of the commission's order levying a tax to pay principal of and interest on the bonds;
- (3) a statement of the total bonded indebtedness of the district, including the series of bonds and the assessed value of property for the purpose of taxation as shown by the last official assessment of the district; and
- (4) any other information which the attorney general requires.

(b) The attorney general shall carefully examine the bonds in connection with the constitution, laws relating to the execution of the bonds, and the facts.

(c) If the attorney general finds that the bonds were issued in conformity with the constitution and laws and that they are valid and binding obligations of the district, he shall certify the bonds.

[Acts 1971, 62nd Leg., p. 649, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.254. Registration of Bonds

After the bonds are examined and certified by the attorney general, they shall be registered by the

comptroller in a book kept for that purpose, and the certificate of the attorney general shall be preserved in the record to be used in the event of litigation.

[Acts 1971, 62nd Leg., p. 650, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.255. Validity of Bonds

(a) After the bonds are certified by the attorney general and registered by the comptroller, they shall be held prima facie valid and binding obligations in every action, suit, or proceeding in which their validity is brought into question.

(b) In any action brought to enforce collection of the bonds or interest on the bonds, the certificate of the attorney general or a certified copy of the certificate shall be received as prima facie evidence of the validity of the bonds and their coupons, and the only defense that can be offered against the validity of the bonds or coupons is forgery or fraud.

[Acts 1971, 62nd Leg., p. 650, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.256. Sale of Bonds

(a) After the bonds are registered, the chairman of the commission shall offer them for sale and shall sell the bonds on the best terms and for the best price possible.

(b) As the bonds are sold, the money received for them shall be paid to the district depository to the credit of the district.

[Acts 1971, 62nd Leg., p. 650, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.257. Bond Record

(a) After bonds are issued, the board shall procure and deliver to the secretary of the district a well-bound book for recording the bonds.

(b) The record kept in the book shall include:

- (1) the bonds and their numbers;
- (2) the amount of the bonds;
- (3) the interest rate;
- (4) the date of issuance;
- (5) the date the bonds become due;
- (6) the place where the bonds are payable;
- (7) the amount received for each bond; and
- (8) the tax levy to pay interest and provide a sinking fund.

(c) The bond record shall be available for public inspection by all interested parties in the district.

(d) On payment of a bond, an entry of the payment shall be made in the bond record.

[Acts 1971, 62nd Leg., p. 650, ch. 58, § 1, eff. Aug. 30, 1971.]

[Sections 63.258 to 63.280 reserved for expansion]

SUBCHAPTER G. TAX PROVISIONS

§ 63.281. Bond Tax

(a) After bonds have been voted, the commission shall levy and have assessed and collected improvement taxes on all taxable property inside the district.

(b) The tax shall be in an amount which is sufficient to pay the principal of and interest on the bonds.

[Acts 1971, 62nd Leg., p. 651, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.282. Maintenance and Operation Tax

(a) With the approval of the electors of the district, the commission may levy and have assessed and collected for the maintenance, operation, and upkeep of the district and its improvements an annual tax of not more than 20 cents on the \$100 valuation on all taxable property in the district.

(b) The proposition to approve the tax provided in Subsection (a) of this section may be voted on at the election to create the district or may be voted on at a separate election to be held in the manner provided for elections held under Subchapter B of this chapter.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "The levy of a tax of not more than 20 cents on the \$100 valuation for maintenance, operation, and upkeep of the district and its improvements."

[Acts 1971, 62nd Leg., p. 651, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1971, 62nd Leg., p. 1770, ch. 518, § 14, eff. May 31, 1971.]

§ 63.283. Funds From Sources Other Than Taxes

The district may pay interest on and principal of the bonds and pay the costs of maintenance, operation, and upkeep with revenue from tolls, rents, fees, or charges other than taxation or with assessments made on the property in the district on the basis of benefit derived.

[Acts 1971, 62nd Leg., p. 651, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.284. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this section, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

§ 63.285. Duty of Assessor and Collector

The assessor and collector shall assess and collect taxes for the district.

[Acts 1971, 62nd Leg., p. 651, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§§ 63.286 to 63.297. Repealed by Acts 1979, 66th Leg., p. 2330, ch. 841, § 6(a)(3), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these sections, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

[Sections 63.298 to 63.320 reserved for expansion]

SUBCHAPTER H. ASSESSMENTS

§ 63.321. Assessments to Retire Debt

Assessments which are equitably distributed against property in the district may be used to pay the cost of making improvements and to pay principal of and interest on bonds, notes, debentures, or other evidences of debt issued by the district for improvements.

[Acts 1971, 62nd Leg., p. 654, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.322. Order to Retire Debt by Assessments

If the commission decides to retire bonds and other evidences of debt by equitably distributed assessments against the property in the district, it shall enter an order with its findings in the minutes of its proceedings.

[Acts 1971, 62nd Leg., p. 654, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.323. Notice of the Order and Hearing

(a) The commission shall publish notice once a week for three consecutive weeks in a newspaper in the district or, if no newspaper is published in the district, in the newspaper published nearest to the district.

(b) The notice shall include a copy of the order and shall set a date for a hearing at which all property owners and persons interested in the district and the improvements may appear and contest the assessments and offer evidence for or against the assessments before the commission.

[Acts 1971, 62nd Leg., p. 654, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.324. Hearing Procedure

(a) All protests, contests, and objections at the hearing shall be presented in writing.

(b) The commission shall summon witnesses when requested to do so and take testimony with reference to the protests, contests, and objections.

(c) The hearing may be adjourned from day to day until all proponents or contestants of the assessments have had full opportunity to present evidence.

[Acts 1971, 62nd Leg., p. 654, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.325. Findings

The commission shall enter its findings after the hearing, and if it finds against the proposition of

assessments, no further action shall be taken in the matter.

[Acts 1971, 62nd Leg., p. 654, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.326. Tax Roll

(a) If the commission finds in favor of levying assessments, it shall direct the assessor and collector of the district to prepare a roll of all the taxable property in the district in the same manner as assessment for ad valorem taxes.

(b) The assessor and collector shall make an assessment in the proportion of cost to be borne by each item of property on the tax rolls, basing the proportion of cost on benefits to be derived from the improvements by the property and the owner of the property.

[Acts 1971, 62nd Leg., p. 654, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.327. Board of Equalization

(a) If the commission finds in favor of levying assessments, it shall appoint three persons who are electors of the district to be commissioners on the board of equalization and shall designate the time for the meeting of the board of equalization.

(b) The board of equalization shall meet at the time fixed by the commission to receive the assessment lists or books of the district for examination, correction, equalization, and approval.

(c) The secretary of the commission shall act as secretary for the board of equalization and shall keep a permanent record of the proceedings of the board of equalization.

(d) Before beginning to perform the duties of the board of equalization, each member shall take the following oath: "I _____ do solemnly swear (or affirm) that I will, to the best of my ability, make a full and complete examination, correction, and equalization of all property contained in the district as shown by the assessment lists or books of the assessor and collector and add all property not included of which I have knowledge."

(e) The oath shall be entered in the minutes by the secretary.

(f) The completed tax roll shall be submitted to the board of equalization.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2312, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 63.328. Notice of Hearing by Board of Equalization

Notice of the hearing by the board of equalization shall be published once a week for three consecutive weeks in a newspaper published in the district or, if

no newspaper is published in the district, in the newspaper published nearest to the district.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.329. Hearing by Board of Equalization

The owners of property shall have an opportunity to present evidence in hearings before the board of equalization. All interested persons shall have an opportunity to appear and present evidence as to the benefits or lack of benefits to property in which they are interested.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 63.330. Findings of Board of Equalization

After all hearings are completed, the board of equalization shall report its findings to the commission for acceptance or disapproval.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.331. Disapproval of Findings

If the commission refuses to approve the tax rolls, it shall hold hearings on all items not approved in the manner provided for the board of equalization.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.332. Effect of Approval of Findings

The approval of the findings of the board of equalization and the tax rolls as finally fixed shall be conclusive except in cases of fraud or the failure to equitably distribute the assessments.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.333. Personal Obligation; Lien

An assessment is a personal obligation of the property owner against whom the assessment is made, and the district has a lien against the assessed taxable property.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.334. Assessment Fund

(a) The assessments shall be paid to the assessor and collector and shall be kept by him in a separate fund known as the "Assessment Fund."

(b) Payments out of the fund shall be made to retire the bonds, notes, debentures, or other evidences of debt of the district on vouchers drawn by the commission each year on the maturity of the indebtedness.

(c) The vouchers shall be signed by at least two members of the commission.

[Acts 1971, 62nd Leg., p. 655, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.335. Errors in Assessments

(a) An error, mistake, or formality in the assessment or in any step or proceeding prerequisite to the assessment shall not invalidate the assessment, but the commission may correct the error at all times.

(b) An error or mistake in describing any parcel or item of property or the name of any owner of property shall not invalidate the assessment, but it shall have full force and effect against the premises and the real and true owner.

[Acts 1971, 62nd Leg., p. 656, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.336. Reassessment

(a) If, in the opinion of the commission, an error, mistake, or invalidity exists in any proceeding with reference to the improvements or assessments, it shall correct the error, mistake, or invalidity and reassess the property and the owners of the property.

(b) The reassessment shall be made after the same notice and hearing as provided for the making of an original assessment. The commission in making the reassessment shall take into consideration any enhancement or depreciation in the value of the property assessed and shall make the reassessment on a basis of equalization and the equitable distribution of benefits to the property with respect to all other property in the district.

(c) A reassessment shall not be made later than three years from the date of the original assessment except in the case of fraud or undisclosed ownership of property.

[Acts 1971, 62nd Leg., p. 656, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.337. Suit to Set Aside or Correct Assessment

(a) A property owner with an assessment or reassessment against him or his property may bring suit within 20 days after the assessment or reassessment in any court with jurisdiction to set aside or correct the assessment or reassessment or any proceeding with reference to the assessment or reassessment due to any error or invalidity.

(b) The cost of a suit to set aside or correct an assessment or reassessment shall be paid by the loser of the litigation.

(c) After the 20-day period following the assessment or reassessment, the owner or his heirs, assigns, or successors do not have a right of action or a defense of invalidity of the assessment or reassessment in any action in which the assessment or reassessment is in question, except in case of fraud.

[Acts 1971, 62nd Leg., p. 656, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.338. Delinquent Assessments

(a) Not later than August 1 of each year, the assessor and collector shall prepare a delinquent roll showing all delinquencies in the payment of the assessments.

(b) The assessor and collector shall post the delinquent roll in the district office for at least 20 days.

[Acts 1971, 62nd Leg., p. 656, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.339. Suit for Collection

(a) After the delinquent roll has been posted in the district office for 20 days, the attorney for the district may file suit for collection in any court with jurisdiction.

(b) An attorney's or collection fee of 10 percent on the amount of principal and interest due at the time of filing the suit shall accrue against the property owner and shall be charged as costs of court. The attorney's or collection fee is collectible against the property owner and the property from the date of the filing of the suit.

(c) Except as otherwise provided in this section, the suit shall be filed and prosecuted in the same manner as suits for the collection of delinquent ad valorem taxes.

(d) It is not necessary in the suit to specifically plead and prove the orders, notices, rules, and regulations of the commission relating to the assessment or reassessment. It is sufficient for the petition or other pleading to allege that the proceedings with reference to the making of the improvements and the assessments or reassessments were held in compliance with the law and that all prerequisites to the fixing of the assessment lien on the assessed property and the personal liability of the owner were performed.

[Acts 1971, 62nd Leg., p. 656, ch. 58, § 1, eff. Aug. 30, 1971. Amended by Acts 1979, 66th Leg., p. 2321, ch. 841, § 4(r), eff. Jan. 1, 1982.]

§ 63.340. Sale of Property to Satisfy Judgment

The district may purchase any property at a sale to satisfy a judgment in favor of the district on a delinquent assessment or reassessment, if the district is the best bidder.

[Acts 1971, 62nd Leg., p. 657, ch. 58, § 1, eff. Aug. 30, 1971.]

§ 63.341. Rules and Regulations

The commission may adopt any necessary rules, regulations, and orders, which are not inconsistent with the provisions of this chapter, for the purpose of carrying out the provisions of the chapter relating to assessments, reassessments, and the collection of assessments.

[Acts 1971, 62nd Leg., p. 657, ch. 58, § 1, eff. Aug. 30, 1971.]

SUBCHAPTER I. ANNEXATION

§ 63.371. Annexation Authority

A district created under this chapter or converted from a district created under Article III, Section 52 of the Texas Constitution, into a conservation and reclamation district under Article XVI, Section 59 of the Texas Constitution, may extend its boundaries and annex adjacent territory.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.372. Petition

Before territory is annexed to the district, a petition signed by 50 or a majority of the electors residing in the adjacent territory proposed to be annexed shall be presented to the commission requesting an election in the adjacent territory to determine whether or not the territory will be annexed and whether or not it will assume its pro rata part of the outstanding bonded debt of the district.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.373. Scheduling Petition for Hearing; Notice

(a) After a petition is presented under Section 63.372 of this code, the commission shall set the petition for a hearing to be held within 10 days from the date of presentation of the petition.

(b) Notice of the hearing shall be posted at three public places in the territory proposed to be annexed for at least five days before the hearing on the petition. The notice shall include the time and place of the hearing and the boundaries of the territory proposed to be annexed.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.374. Hearing

The commission shall hold the hearing on the subject of annexation of adjacent territory by the district, and any person who has taxable property in the territory proposed to be annexed may appear in person or by counsel and offer testimony or argument for or against the inclusion of all or any part of the land proposed to be annexed.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.375. Election Order

If after the hearing the commission finds that inclusion of the territory proposed to be annexed would be a direct benefit to all the land in that territory, the commission shall order an election to be held in the territory proposed to be annexed.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.376. Notice of Election

(a) The election shall be held not less than 20 nor more than 30 days from the day of the election order and after notice is given.

(b) Notice of the election shall be published once a week for 20 days immediately preceding the election in some newspaper published in the territory proposed to be annexed. If no newspaper is published in the territory, notice shall be posted in three public places inside the territory for at least 20 days immediately preceding the election.

(c) The notice:

(1) shall give the time and place or places for holding the election;

(2) shall give the boundaries of the territory proposed to be annexed; and

(3) may contain the substance of the order of the commission ordering the election.

(d) The secretary of the commission shall have the notice published or posted.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.377. Ballots

The ballots for the election shall be printed to allow for voting for or against: "Annexation to the navigation district" and "Assumption of a pro rata part of the bonded debt of the navigation district."

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.378. Election Officials

The commission shall appoint one judge and two clerks for each election box or place to hold the election. The judge and clerks shall be electors in the territory proposed to be annexed and shall reside near the place for holding the election.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

§ 63.379. Canvass of Vote; Entry of Order

(a) The election judges shall certify the election returns to the commission, and the commission shall canvass the returns.

(b) If a majority of the electors voting at the election favor annexation and assumption of the pro rata part of the bonded debt of the district, the commission shall enter an order in its minutes annexing the territory, and from and after the entry of the order, the annexed territory shall be a part of the district with all the rights, benefits, and burdens of property originally situated in the district.

(c) If a majority of the electors voting at the election favor annexation and the proposition to assume the bonded debt fails to carry, the commission shall enter an order in its minutes annexing the territory to the district, and from and after the entry of the order, the annexed territory shall be a part of the district with the exception of the as-

sumption of the outstanding bonded indebtedness. The annexed territory shall be subject to a tax for maintenance and operation and shall be liable for all other bonded indebtedness and other indebtedness thereafter legally imposed by the district.

(d) After an order of annexation has been entered in the minutes of the commission, a certified copy of the order shall be prepared by the secretary of the commission and shall include the boundaries of the territory annexed. The secretary shall record the order or have it recorded in the real estate records of the county or counties in which the territory is located.

[Acts 1977, 65th Leg., p. 1978, ch. 791, § 4, eff. Aug. 29, 1977.]

CHAPTER 64. WATER IMPORT AUTHORITIES

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SUBCHAPTER A. GENERAL PROVISIONS

§ 64.001. Authorization of the Ogallala Water Import Authority of Texas

Pursuant to and as expressly authorized by Article XVI, Section 59, of the Texas Constitution, there may be created within the State of Texas a water import authority to be known as The Ogallala Water Import Authority of Texas, a governmental agency and body politic and corporate, authorized to exercise all of the powers essential to the accomplishment of the purposes of that constitutional provision and to exercise the rights, powers, duties,

privileges, and functions provided in this chapter and as may be contemplated and implied by Article XVI, Section 59, of the Texas Constitution and by this chapter and other laws of this state.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.002. Territory Included in Authority

The authority shall include all of the area in Texas that has beneath it the subsurface formation known as the Ogallala Formation as that area is determined, fixed, and certified by the Texas Water Development Board, together with all of any county, a part of which is included in that area, provided that the area in Borden, Crosby, Dickens, and Garza Counties, and any county which does not have at least a portion of the Ogallala Formation beneath it shall not be initially included in the import area. A county or any portion of a county which is not included in the import area shall not be subject to assessment or taxation by the authority unless subsequently annexed to the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.003. Definitions

In this chapter:

(1) "Authority" means The Ogallala Water Import Authority of Texas.

(2) "Development board" means the Texas Water Development Board.

(3) "Import area" means the area or territory to be included in the authority.

(4) "Net revenues" means the gross revenues of the authority from all sources other than taxes, after deduction of amounts used to pay the costs of maintaining and operating the authority and its properties.

(5) "Board" means the board of directors of the authority.

(6) "United States" means the United States of America and includes any department, bureau, or agency of the United States of America.

(7) "State" means the State of Texas, and its officers, corporations, agencies, instrumentalities, departments, bureaus, and commissions acting for it, but excludes political entities that do not have statewide jurisdiction.

(8) "District" means a river authority, irrigation district, soil and water conservation district, flood control district, water control and improvement district, water supply district, underground water conservation district, municipal utility district, county, municipality, city, town, or any other district or political subdivision of the state located totally or partially within the authority and authorized by law to impound, manage, appropriate, use, reuse, store, treat, conserve, protect, control, or otherwise deal with water or deliver water to water users.

(9) "Attorney general" means the attorney general of the State of Texas.

(10) "Comptroller" means the comptroller of public accounts of the State of Texas.

(11) "Water," unless the term is coupled with some other qualifying or limiting term, means all water including surface water, underground water, water naturally existing locally, reclaimed waste water, and imported water.

(12) "Underground water" means the water existing below the earth's surface, including water injected by a person or district to a subsurface formation for later withdrawal by the person or district, but does not include defined subterranean streams or the underflow of rivers or imported water that has been injected by the authority for underground storage and transmission as defined in this chapter.

(13) "Surface water" means water other than underground water.

(14) "Imported water" means surface water brought to the area of the authority for beneficial use in the authority from a source or sources not in or naturally tributary to the area.

(15) "Underground water reservoir" means a specific subsurface formation capable of storing water.

(16) "Importer" means any person bringing imported water from outside the authority to any point inside the authority or handling any part of the movement of imported water from its source toward the area of an authority for the purpose of making imported water available in the authority.

(17) "Underground storage and transmission" means the placing of water in subsurface formations or cavities through artificial recharge for storage underground and for lateral conveyance through the subsurface formations to points of withdrawal for beneficial use.

(18) "Waste" means:

(A) the failure to put to a beneficial use any water;

(B) the pollution or harmful alteration of the character of water within a surface reservoir, surface conduit, or underground reservoir by means of salt water or other deleterious matter; or

(C) wilfully causing¹ suffering, or permitting water to escape into any river, creek, natural water course, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or on land other than that on which it has been delivered for ultimate use.

(19) "Beneficial use" means the use of water for:

(A) agricultural, gardening, domestic, stock raising, municipal, or mining purposes;

(B) exploring for, producing, handling, and treating oil, gas, sulphur, or other minerals;

(C) manufacturing, industrial, commercial, recreational, or pleasure purposes; or

(D) any other use that is beneficial to the user of the water.

(20) "Work" means:

(A) dams and dam sites, treatment facilities, reservoirs and reservoir sites, underground reservoirs and storage space, wells, pumping plants, artificial recharge facilities, drainage facilities, waste water reclamation and treatment facilities, and all conduits and other facilities necessary and useful in the control, protection, conservation, storage, diversion, transmission, treatment, or distribution of water;

(B) any replacement, renovation, or improvement of the foregoing; and

(C) land, property, franchises, easements, rights-of-way, and privileges necessary or useful to operate or maintain any of the foregoing.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

¹ So in enrolled bill.

[Sections 64.004 to 64.010 reserved for expansion]

SUBCHAPTER B. CREATION OF THE AUTHORITY

§ 64.011. Designation of the Import Area

(a) On its own motion or on receiving a petition signed by at least 50 landowners in the proposed import area, the development board, after notice and hearings, shall define and certify the import area.

(b) The development board shall schedule and conduct a minimum of five hearings within the import area to allow adequate opportunity for testimony from those who wish to appear. Notice of the hearings shall be published in a newspaper or newspapers with general circulation within the import area at least 14 days before the day of the hearing.

(c) Additional special hearings may be conducted in each county for which a petition containing the signatures of not less than 10 percent of the registered voters in that county is submitted if the petition is submitted within 30 days after the development board hearings begin, requesting a special hearing to be conducted in that county. Notice of each special hearing, if any, shall be published in a newspaper with general circulation within the county in which the special hearing is to be held at least 14 days before the day of the special hearing.

(d) The executive director of the Department of Water Resources shall prepare available evidence relating to the import area demonstrating the cost and benefit to be reasonably expected from the importation of water into the area and the estimated quantities of water that are or may be made available and are required for import into the area, as well as evidence showing the economic, environmental, and human costs and benefits that will result

within each county within the import area if water is imported into the area.

(e) The development board shall give consideration to all relevant evidence presented at the public hearing held by it and shall not authorize an election until it determines that adequate water would be contractually available on an equitable basis for all the water needs existing within the authority for import into the area.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.012. Method of Creating Authority; Name

After the import area has been defined and certified, the authority may be created. Except as otherwise provided in this chapter, the provisions of Chapter 54 of this code apply to the creation of this water import authority to the extent those provisions are applicable.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.013. Consent of Districts Not Required

The consent of any district located wholly or partially in the import area is not required before the authority may be created.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.014. Findings and Action by Development Board

(a) If the development board finds, after public hearing, that the authority is feasible and practicable, that it would be a benefit to the area included in the authority, and that it would be a public benefit or utility, the development board shall make these findings and shall grant the petition, otherwise the petition shall be denied.

(b) The development board's findings of benefit to the land included in the authority are final and conclusive unless judicial review is sought in the manner provided in Subchapter J of Chapter 5 of this code¹ for appeals from other orders of the development board, and after the development board's order of creation is final, no land may be excluded from the authority, but land may be added and annexed in the manner provided in this chapter.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

¹ Section 5.351 et seq.

§ 64.015. Dividing Authority into Precincts

At the time a petition for creation is granted, the development board, in its order, shall divide the authority into 15 precincts, with each precinct having approximately the same number of persons residing in its area as each of the other precincts.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.016. Confirmation of Authority

(a) Within 180 days from the effective date of the order of the development board granting the petition for creation of the authority, the board of the authority shall order an election to be held throughout the authority within 60 days, at which there is to be submitted the question of whether or not the establishment of the authority is confirmed, the question of election of directors, the question of levying, assessing, and collecting an ad valorem tax throughout the authority, and any other questions required by this chapter or by the board.

(b) Notice of the election shall be published in a newspaper or newspapers that individually or collectively have general circulation in the authority at least 14 days but not more than 30 days before the date set for the election.

(c) The board shall appoint a presiding judge for each of the voting places determined by the board, and each of the presiding judges shall appoint the necessary judges and clerks to assist him or her in holding the election. The qualifications of voters in all elections authorized by this chapter are as specified by the Texas Election Code for those voting in the general election.

(d) If a majority of the votes cast in the election favor confirmation of the authority, the board shall declare the results, and the authority is created and shall have all of the powers and authority conferred by this chapter. If a majority of the votes cast in the election do not confirm the authority, no further election may be held for confirmation for at least 12 months, and if the authority is not confirmed within five years from the day of the development board's order granting the petition to create the authority or if the voters refuse to authorize the levy, assessment, and collection of an ad valorem tax through the authority within the five-year period, the authority is null and void, and the development board is to enter an order to this effect.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.017 to 64.050 reserved for expansion]

**SUBCHAPTER C. ADMINISTRATIVE
PROVISIONS**

§ 64.051. Governing Body

(a) The authority's powers and duties shall be exercised through a board of directors. The first directors shall be appointed by the development board in its order of creation, naming one director from each precinct, and subsequent directors shall be elected from each of the precincts into which the authority is divided, with one director being elected from each precinct.

(b) At the election called for confirmation of the authority, a director shall be elected from each precinct by a plurality vote of the qualified voters casting votes in the precinct for the election of

director. Immediately after the first election, the 15 directors, by lot, shall determine which 7 of their number are to serve for an initial term of one year, and which 8 are to serve for an initial term of two years. The election day for directors is to be on the same day of the same month every year, or as near to that time as the board of directors deems practicable.

(c) The election of directors of the authority shall be conducted in the manner provided for election of directors in Chapter 54 of this code, except as otherwise provided in this chapter.

(d) In the event of a vacancy on the board, the remaining directors may fill the vacancy for the unexpired term.

(e) The board of directors may redesignate or redistrict the precinct boundary lines from time to time as may be necessary in order to comply with the principle of equal representation. The changes by the board are to be accomplished only on an affirmative vote of at least eight directors.

(f) If the boundaries of precincts are redesignated or redistricted as provided in Subsection (e) of this section, at the next election all directors are to stand for election in the manner provided in this section, and after the election, the 15 directors shall draw lots for terms of office in the manner provided in this section.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.052. Qualification of Directors

To be qualified for membership on the board, a person shall possess all qualifications to vote in a general election under Texas law and be a bona fide resident in the authority and in the precinct from which he or she is elected or appointed. Each director shall subscribe to the oath of office, with conditions in the oath as required by law for members of the county commissioners court, shall execute a bond for the faithful performance of his or her duties in the amount of \$10,000, and shall hold office until his or her successor has been elected and qualified.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.053. Board Action; Duties; Quorum; Compensation and Expenses

(a) The board shall perform official actions by motions or by resolutions, and a majority of its membership constitutes a quorum for transaction of business. A majority of the quorum present is sufficient in all official actions, including final adoption of resolutions, except as otherwise specifically provided in this chapter.

(b) The board shall hold regular meetings at least once each month at times established in the authority's bylaws or by resolution of the board. The president or any three board members may call

necessary special meetings in the administration of the authority's business, but at least five days before the meeting date for a special meeting, the secretary of the board shall mail notice of the meeting to the current address of each board member. Notice of any meeting may be waived in writing by a director.

(c) Expenses of directors incurred in connection with performing their duties shall be reimbursed on the basis authorized by the board. In addition to expenses, a per diem of not to exceed \$50 a day may be paid directors at the discretion of the board.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.054. Officers

(a) The board shall elect annually from among its members a president of the board. The president shall preside at the meetings of the board and shall perform all other functions that customarily are incident to his or her office.

(b) One or more vice-presidents shall be elected annually by the board from among its members, and if more than one is elected, they shall be designated in numerical order, and in that numerical order shall act as president in the event of the absence, inability, or failure of the president or a higher-numbered vice-president to act.

(c) A secretary and, at the option of the board, an assistant secretary shall be elected annually by the board with the board having discretion as to whether these officers are to be chosen from among the members of the board. The secretary and assistant secretary are charged with the duty of seeing that all books and records of the authority are properly kept.

(d) Except in the case of the secretary and assistant secretary, only members of the board are eligible to serve as officers of the board.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.055. Advisory Council

(a) If the authority is confirmed, an advisory council is created with authority to make and submit recommendations to the board.

(b) The advisory council shall act by majority vote of its duly qualified members. The membership of the advisory council consists of one resident representative from each county within the boundaries of the authority. Selection of these county representatives on the advisory council is by written resolution of each county commissioners court, filed with the authority, and each representative shall serve at the will of the commissioners court appointing him or her.

(c) No person may serve as a member of the board and as a member of the advisory council at the same time, and any attempt to do so disqualifies

the person from serving as a member of the advisory council.

(d) The first meeting of the advisory council is to be called by the board within 30 days after the confirmation of the authority. At the first meeting of the advisory council, the president of the board shall preside for the purpose of the election of a chairman, vice-chairman, and secretary of the advisory council, each being elected for a term of one year by a majority vote of the advisory council members. Also, at the first meeting of the advisory council, an annual meeting date shall be determined for the election of officers of the advisory council. The chairman may call a meeting of the group by giving five days' notice of the meeting by mail to each member.

(e) The chairman of the advisory council shall act as an ex officio board member without the right to vote on the board and is entitled to sit in all board meetings and report to the board the action, if any, of the advisory council.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 26, 1979.]

§ 64.056. Executive Director; Employees

(a) The board may employ an executive director for the authority and may delegate full power and authority to him or her in the management and operation of the affairs of the authority, subject only to the orders of the board, and may determine his or her compensation. The board may employ a deputy executive director with the authority the board may delegate.

(b) The board may also employ a treasurer and other employees including engineers, hydrologists, geologists, technical experts, accountants, attorneys, economists, and assistants to its officers, and determine the compensation of those employees, including reimbursement of expenses, as it may deem appropriate to the proper conduct of the authority's affairs. The board may provide for the discharge of any employee.

(c) The treasurer of the authority has charge of its funds, shall see that the funds are kept safely, and shall account for the funds to the board. The funds of the authority are disbursed only on checks, drafts, or other instruments signed by the treasurer and other persons authorized by the board.

(d) The executive director, deputy executive director, and treasurer each shall execute a bond in an amount as may be required by the board, but in no event less than \$50,000.

(e) All bonds required to be executed by the directors, officers, and employees of the authority are to be executed by a surety company authorized to do business in this state. The authority may pay the premiums on the bonds. The directors may also require bonds on any employee.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.057. Authority Office; Books, Records, Etc.

(a) A regular office shall be established and maintained for the conduct of the authority's business which shall be at a location within the authority to be determined by the board. The board may establish branch offices.

(b) The board shall have a true and full account of the proceedings of its meetings kept in writing and shall preserve originals or copies of its minutes, contracts, records, notices, accounts, receipts, and records of any character, all of which are public records, in the manner and for the length of time specified by the state auditor.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.058 to 64.090 reserved for expansion]

SUBCHAPTER D. POWERS AND DUTIES**§ 64.091. Purposes**

The authority is created:

(1) to obtain supplemental supplies of imported water for use on an equitable basis within the boundaries of the authority;

(2) to preserve, conserve, protect, replenish, prevent waste, recharge, store, manage, treat, distribute, drain, exchange, and sell imported water;

(3) to contract for imported water; and

(4) to provide for the storage, sale, management, treatment, drainage, and distribution of imported water.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.092. General Powers

In addition to those specifically otherwise provided, the authority may exercise the following powers:

(1) contract with the State of Texas or any state, the United States, and any district, or any person for a supply of imported water, for the financing and construction of works, for the operation and maintenance of works, for the purchase of storage space, and for any purpose consistent with this chapter;

(2) purchase, lease, store, control, conserve, protect, distribute, process, treat, transport, utilize, contract for, sell, exchange, and otherwise manage and deal with imported water, and prevent waste of imported water;

(3) provide by purchase, contract, lease, gift, or in any other lawful manner, and to develop all facilities and works deemed necessary or useful for the purpose of storing, purchasing, leasing, acquiring, controlling, conserving, protecting, distributing, processing, treating, utilizing, contracting for, exchanging, and selling imported water, and the transportation of imported water to or from any point within the authority chosen by the

board for municipal, domestic, agricultural, livestock, industrial, and other beneficial or useful purposes permitted by law;

(4) construct, operate, repair, improve, maintain, renew, replace, discontinue, relocate, and extend works;

(5) acquire and develop any available source of imported water supply and construct, acquire, develop, operate, and maintain all facilities deemed necessary or useful with respect to an imported water supply;

(6) establish or otherwise provide for public parks and recreational facilities, acquire land adjacent to any reservoir in which the authority owns water storage rights for those purposes, and contract for the lease of land acquired by it for recreational or concession purposes under terms that the board may determine;

(7) contract with districts and persons for the sale and distribution of imported water, provided, however, that the authority shall not contract with any person or other entity being supplied water by an existing district unless the district is unable or unwilling to make available adequate water to meet those persons' or entities' requirements;

(8) exchange water over which the authority has control for other property rights or things of value;

(9) acquire by purchase, construction, lease, gift, or in any other lawful manner, and maintain, use, and operate property of any kind or any interest in property within or without the boundaries of the authority necessary for the exercise of the powers, rights, functions, and purposes possessed by the authority under this chapter;

(10) acquire by condemnation, property of any kind except water or any interest in property except water necessary to the exercise of the powers, functions, and purposes possessed by the authority in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended,¹ relating to eminent domain. The amount and character of the property to be acquired shall be determined by the board, provided, however, that as against districts that have the power of eminent domain, the fee title may not be condemned, but the authority may condemn only an easement; and provided further that the power of eminent domain shall apply only to property located within the boundaries of the authority;

(11) sell or otherwise dispose of surplus property of any kind or any interest in property that is not necessary for the operation of the authority, provided, that in all cases in which the board considers the value of the property to be in excess of \$25,000, the property shall be sold only on competitive bids after adequate advertisement as provided in Section 54.220(b) of this code;

(12) formulate, promulgate, and enforce rules for the purpose of conserving, preserving, and protecting imported water, but those rules shall

not supercede existing district rules pertaining to all other water;

(13) formulate, promulgate, and enforce rules to prevent waste of imported water and for the other purposes included in this chapter;

(14) acquire land and the use of land for the construction, erection, maintenance, replacement, alteration, removal, improvement, and expansion of, and otherwise to deal with works for the purpose of transporting imported water to and from works and for the other purposes included in this chapter;

(15) have made, in cooperation with any governmental or private entity or by competent professionals, surveys, investigations, and studies for acquisition of supplies, transportation, storage, distribution, sale, and management of imported water, as well as the environmental, economic, legal, and sociological impact and related problems, and determine the quantity of water that may be available from various sources and that may be feasible to market and use within the authority, taking into consideration the improvements, developments, works, and operations that may be required in connection with them;

(16) develop comprehensive plans for the realization and carrying out of the purposes of the authority;

(17) enforce by injunction, mandatory injunction, or other appropriate remedy in courts of competent jurisdiction, rules adopted by the authority, provided that no rule shall be effective until a brief resume of the rule has been published once a week for two consecutive weeks in one or more newspapers individually or collectively having general circulation within the authority and the rule shall be effective not less than 14 days after the date of first publication;

(18) in the event that the authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all necessary relocations, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the authority;

(19) cooperate and contract with the State of Texas, or any other state, the United States, any district, or any person for an imported supply of water, for the purposes of financing or construction of works, for the acquisition, purchase, extension, or operation and maintenance of those works, for the assumption as principal or guarantor of indebtedness, or for carrying out any powers and purposes of the authority;

(20) utilize the subsurface formations for underground storage and transmission of imported water and subsequently recapture imported water placed in underground storage by the authority at

the same place or other locations away from the locations where the water was placed in storage;

(21) make contracts and execute instruments necessary to the exercise of the powers, functions, and purposes of the authority;

(22) incur indebtedness for any of the purposes for which the authority is created;

(23) borrow money for its lawful purposes, and, without limitation to the generality of the foregoing, borrow money and accept grants, gratuities, services, or other support from any source, and in connection with any loan, grant, or other support, enter into agreements as the board deems advisable;

(24) adopt, use, and alter a seal;

(25) sue and be sued;

(26) adopt bylaws for the management and regulation of its affairs;

(27) fix and collect charges and rates for water services and for water furnished by the authority, that shall be uniform for each class of entity within the authority receiving water or services;

(28) fix and collect assessments in accordance with this statute;

(29) impose penalties for failing to pay charges, assessments, and rates when due;

(30) levy, assess, and collect ad valorem taxes to provide funds necessary to carry out the purposes, powers, and functions granted the authority, provided, that the levy and assessment of ad valorem taxes shall not exceed 50 cents on each \$100 of the fair market value of property;

(31) establish zones of benefit within the authority that reflect the degree of benefit resulting to each zone from the provision of an imported water supply from the authority, and levy assessments in proportion to benefits;

(32) provide for the compilation of information on facilities for producing imported water from subsurface formations underlying the authority or use from imported water supplies;

(33) regulate, manage, and control activities on the authority's property and protect the property from waste and damage;

(34) make contracts, employ labor and other personnel, and do all acts necessary for the full exercise of its powers, functions, and purposes, and construction or other work may be performed or carried out by contracts or by the authority;

(35) act jointly with or cooperate with the United States, the state, any district, and any person or other entity to carry out the provisions and purposes of this chapter, and in joint or cooperative activity, the authority may act within or without its boundaries; and

(36) do any and every lawful act within or without the authority necessary in order that sufficient water may be made available for any

present or future beneficial use or uses of the land or inhabitants within the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

¹ Civil Statutes, art. 3264 et seq. (generally repealed; see, now, Property Code, § 21.001 et seq.).

§ 64.093. Contracts with Districts

(a) The authority may cooperate with and enter into contracts with districts and persons for the purpose of supplying and selling water to them. A contract may be on terms and for the time the parties may agree, and it may also provide that it will continue in effect until the authority's bonds, specified in the contract, and refunding bonds issued in lieu of those bonds, are fully paid.

(b) If the law requires a ratification of a proposed contract by the electorate, the contract becomes effective only when it is approved by a majority vote of the qualified voters voting at an election held for that purpose in the affected district, and if applicable, in the authority. The election shall be called, conducted, and results canvassed and announced in the manner provided in Chapter 54 of this code for tax bond elections.

(c) Should the board of directors, in regular meeting, adopt a plan of financing involving the issuance of bonds, contracts, or other obligations to be supported or secured wholly or partially by revenues to be derived from contracts for the sale of water or other services to one or more districts, the board shall promptly direct a certified copy of its resolution to that effect, together with a copy of the proposed contract, to each district in which the election is to be held. In this resolution, the board may designate a limit of time of not less than 60 days from the time of notice to the district in which the district's governing body is to call the contract election, if appropriate. If the governing body of any district notified fails or refuses to call the election within the specified time, or if the election is held but results adversely to the approval of the proposed contract, the district is not entitled to any of the rights under the proposed contract.

(d) After having negotiated to contract with the authority for a water supply, no district may be eliminated from the boundaries or jurisdiction of the authority by virtue of its failure to call an election or approve a contract under the procedures in this section, but on this failure, the authority is not obligated to furnish the district the services or facilities to be supplied or constructed with the proceeds of the authority's bonds or other obligations, that are supported in any part by the money due the authority under the contracts.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.094. Awarding Construction or Purchase Contracts

(a) No contract requiring an expenditure of more than \$25,000 is made until after publication of a notice to bidders in a manner and for a time deemed adequate by the board.

(b) The notice is sufficient if it states the time and place the bids will be opened, the general nature of the work to be done, or the material, equipment, or supplies to be purchased, and states when and on what terms copies of the plans and specifications may be obtained.

(c) Contracts for personal or professional services, and contracts with any entity for emergency work, materials, or services, and contracts with the United States, or the state or a district are exempt from the provisions of this section.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.095. Contracts with the United States, the State of Texas, or Their Agencies; Elections

(a) The authority may contract with the United States or the state and any of the agencies of either under any of the federal or state laws for the construction, operation, and maintenance of a work or facility by which imported water may be supplied and distributed to the authority under an act of congress or the legislature. In the event a contract is proposed to be made under which the authority is to be obligated to make payments wholly or partially from ad valorem taxes or otherwise, the contract may not be entered into unless authorized by an election at which a majority of the qualified voters voting at the election favor the execution of the contract. The procedures for calling the election, giving notice, and other requirements are the same as those provided in Chapter 54 of this code relative to issuance of bonds.

(b) In the event the authority enters into a contract with the United States or the state or any of the agencies of either, there may be no subsequent alteration of the territorial limits of the authority, and no proceedings for the exclusion of any area from the authority may be undertaken under the provisions of any law unless the alterations or exclusions have first received the approval of the United States or the state or its contracting agency, as the case may be.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.096. Municipal Utility District Laws Applicable When not in Conflict

(a) All powers conferred by Chapter 54 of this code relating to municipal utility districts are applicable to the authority created under the provisions of this chapter insofar as those powers are not in conflict with the provisions of this chapter.

(b) Except as otherwise provided in this chapter, the signing of petitions, the filing of petitions, the notices, public hearings, voting, elections, canvassing of results, contest of elections, and all other administrative and procedural matters relating to formation, administration, and alterations of the authority are subject to the requirements of Chapter 54 of this code, and if the requirements are met, the proceedings are conclusively presumed to be in accordance with all of the requirements of the laws of this state.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.097. Land to Remain in Authority

Once land is included within the authority and the authority is confirmed, the land may not be removed from the authority except as provided in Subchapter J of this chapter.¹ An unfavorable vote on any issue in some portion of the authority does not constitute grounds for excluding that portion from the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

¹ Section 64.301 et seq.

§ 64.098. Adoption of Rules; Public Powers and Penalties

(a) The board may adopt and enforce rules, subject to the restrictions of Section 64.092(12) of this code, relating to the quality of all water in and to flow into a reservoir or conduit owned by the authority or that by contract or otherwise, it may control to prevent trespass, vandalism, waste of water, or the unauthorized use of water. The board may regulate residence, hunting, fishing, boating, and camping, and all recreational and business privileges above, on, and in the reservoir, conduit, or any body of land or easement owned or controlled by the authority.

(b) On conviction in a court of competent jurisdiction of a violation of a rule adopted under this section, a fine shall be assessed in an amount of not less than \$100 nor more than \$1,000, or confinement in the county jail shall be imposed for not less than one day nor more than 30 days, or both. Each day of violation constitutes a separate offense. All fines are to be promptly paid to and become the exclusive property of the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.099. Appeal

(a) An interested person affected by a law, rule, order, or act entered, made, or adopted by the authority who is dissatisfied with the law, rule, order, or act, is entitled to file a suit in a court of competent jurisdiction in the county in which the authority has its principal office to test the validity of this chapter or a law, rule, order, or act, or any of them. The suit shall be advanced for trial and be

determined as expeditiously as possible, and no postponement or continuance may be granted except for a reason deemed imperative by the court. In these trials, the burden of proof is on the party complaining of the law, rule, order, or act, and the law, rule, order, or act is deemed prima facie valid.

(b) The trial is de novo and the court or jury shall determine independently all issues of fact and of law with respect to the validity and reasonableness of the law, rule, order, or act.

(c) The provisions of this section are cumulative of all rights of the affected parties and do not impair or restrict their right to equitable relief.

(d) The authority is not required to give a cost or supersedeas bond or to pay a cost deposit on any appeal from the judgment of any court of this state.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.100. Authority May Acquire Water Permits

The authority is authorized to acquire and own water permits on compliance with the provisions of Chapter 11, Water Code.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.101. Underground Water Rights

The ownership and rights of the owner of the land, his or her lessees and assigns, in underground water are recognized. Nothing in this chapter is to be construed as depriving or divesting the owner, his or her assigns or lessees, of the ownership or right subject to the rules promulgated by the authority pursuant to this chapter. Underground water naturally occurring within the import authority is not to be construed as surplus or imported and the authority shall not buy, sell, or transport that water as part of an import water supply.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.102. Prior Districts Inviolable

Nothing in this chapter shall ever be construed as giving the Ogallala Water Import Authority the right or the power to supercede, preempt, or otherwise interfere with the exercise of the powers, rights, duties, or functions of any other district existing as of the date of creation of the Ogallala Water Import Authority. Each such prior district shall continue to operate and carry out its authorized functions after creation of the Ogallala Water Import Authority. Provided, however, that this section shall not prevent any district from entering into a contract with the Ogallala Water Import Authority and the performance by the authority of such functions of the district as may be made its responsibility on terms of such contract acceptable to the district and the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.103 to 64.120 reserved for expansion]

SUBCHAPTER E. GENERAL FISCAL
PROVISIONS

§ 64.121. Audits

(a) The board shall keep complete and accurate accounts, conforming to approved methods of book-keeping, and those accounts and contracts, documents, and records of the authority are to be kept at its principal office and shall be open to public inspection at all reasonable times.

(b) Within 90 days after the end of each calendar year, the board shall have an audit made of books of account and financial records of the authority for the preceding calendar year by an independent, certified public accountant, or firm of certified public accountants.

(c) Copies of the written report of the audit, certified to by the accountant or accountants, shall be placed and kept on file at the office of the authority and shall be open to public inspection at all reasonable times. A copy of the audit shall be filed with the Department of Water Resources.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.122. Authority Depository and Methods of Selecting the Depository

(a) The board shall designate one or more banks within the authority to serve as depository for the funds of the authority. Funds of the authority shall be deposited in the depository bank or banks, except those pledged to pay bonds that are deposited with the trustee bank or paying agent named in the bond proceedings and to the extent provided in the proceedings. To the extent that funds in the depository bank and the trustee bank are not insured by the F.D.I.C., they are to be secured in the manner provided by law for the security of county funds.

(b) Before designating a depository bank or banks, the board shall issue a notice stating the time and place the board will meet to make the designation, and shall invite the banks in the authority to submit applications to be designated depositories. The term of service for depositories shall be prescribed by the board. The notice shall be published one time in a newspaper or newspapers published in the authority and specified by the board, and the publication shall be completed at least 10 days before the date of the board meeting.

(c) At the time mentioned in the notice, the board shall consider the applications, the management and condition of the banks filing them, and other matters as may be to the best interest of the authority, and shall designate as depositories, the bank or banks that offer the most favorable terms and conditions for the handling of the funds of the authority, and that the board funds have proper

management and are in condition to warrant handling the authority's funds.

(d) If no acceptable applications are received by the time stated in the notice, the board shall designate a bank or banks within or without the authority on terms and conditions advantageous to the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.123. Financial Aid

In consideration of the fact that the authority may be incurring some obligations and making some expenditures before funds are available to pay the obligations and expenditures, for the purpose of providing funds needed to procure necessary engineering or economic surveys or to prepare for and conduct hearings and elections, the collection and compilation of data relating to general conditions influencing the determination of the character and extent of the improvements, works, and facilities to be used in connection with the accomplishment of any purpose of the authority, it is provided that the state or any district wholly or partially located within the authority may loan funds or its services for any or all of those purposes. Any district located wholly or partially within the authority may appropriate and spend money from its general funds or funds legally available for that purpose, and loan the funds to the authority. The authority may contract with the United States, the state, or any district to repay any money advanced as a loan to the authority or to reimburse the state or any district for the cost of services performed.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.124 to 64.130 reserved for expansion]

SUBCHAPTER F. BONDS

§ 64.131. Issuance of Bonds

For the purpose of providing a source of imported water for beneficial purposes permitted by law, and for the purpose of carrying out any other authority conferred by this chapter, the authority may issue its negotiable bonds to be payable from all or any part of its net revenues or from taxes, or from both revenues and taxes of the authority pledged by resolution of the board of directors. In addition to the authority to issue bonds for those purposes, the authority is further authorized to contract in any other lawful manner and to prescribe the method of payment of any contract either by the use of all or any part of its net revenues, taxes, or both.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.132. Bond Conditions

Bonds may be authorized by resolution of the board, bear the date or dates, mature at the time or times, bear interest at the rate or rates, and be

issued in the denominations the board may determine. The bonds shall be signed by the president and attested by the secretary, and have the seal of the authority impressed on them. Bonds may be sold at the price and under the terms determined by the board to be the most advantageous and reasonably obtainable, provided that the interest cost to the authority calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed 10 percent a year. Within the discretion of the board, bonds may be made callable and subject to redemption before their maturity at the times and at the prices prescribed in the authorizing resolution. Interest on all bonds may be payable annually or semiannually within the discretion of the board. Bonds may be issued on one or more than one series and from time to time as required in carrying out the purposes of this chapter. The bonds shall be in the form, either coupon or registered, carry the registration privileges as to principal only or as to both principal and interest, and as to exchange of coupon bonds for registered bonds or vice versa, and exchange of bonds of one denomination for bonds of other denominations, and be payable at the place or places within or without the State of Texas as the board determines and prescribes in the resolution or resolutions authorizing the bonds.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.133. Security for Bonds

Bonds may be secured by a pledge of all or any part of the net revenues or by all or any part of the taxes of the authority or by the net revenues of any one or more contracts or by other revenues in the manner specified by resolution of the board. Any pledge may reserve the right under conditions specified in the pledge to issue additional bonds which are to be on a parity with or subordinate to the bonds then being issued.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.134. Levy of Taxes to Pay Bonds and Interest

If bonds are issued payable wholly or partially from ad valorem taxes, it is the duty of the board to levy a tax sufficient to pay the bonds and the interest on the bonds as the bonds and interest become due, but the rate of the tax for any year may be fixed after giving consideration to the money received from the pledged revenues that may be available for the payment of the principal and interest to the extent and in the manner permitted by the resolution authorizing the issuance of the bonds.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.135. Revenues to Pay Bonds and Interest

If bonds or other contracts payable wholly or partially from revenues are issued or entered into, it

is the duty of the board to establish by contract, with all member units that contract with it for a water supply or water facilities, the rates or compensation for water sold and services rendered by the authority sufficient to pay the expenses of operating and maintaining the authority and its facilities, and to pay as they mature all those obligations incurred including the reserve and other funds as may be provided for the bonds or other contracts under the terms of those obligations, and as may be provided in the board's resolution pertaining to those obligations.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.136. Proceeds of Bonds

From the proceeds of the sale of bonds, the authority may set aside an amount for the payment of interest expected to accrue during construction and for a reserve interest and sinking fund, which provisions are to be made in the resolution authorizing the bonds. Proceeds from the sale of bonds may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the authority is created, including expenses of issuing and selling bonds. Pending the use of bond proceeds for the purpose for which the bonds were issued, the board, in its discretion, may invest them in obligations of the State of Texas or the United States, or in obligations secured by the United States.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.137. Default on Bonds

In the event of a default or a threatened default in the payment of principal or interest on bonds payable wholly or partially from revenues, any court of competent jurisdiction may, on petition of the holders of at least 25 percent of the outstanding bonds of the issue in default or threatened with default, appoint a receiver with authority to collect and receive all income of the authority except taxes, employ and discharge agents and employees of the authority, take charge of funds on hand except funds received from taxes that can be identified and manage the proprietary affairs of the authority without consent, interference, or hindrance by the directors. The receiver may also be authorized to sell or make contracts for the sale of water or renew contracts with the approval of the court appointing him or her.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.138. Approval and Registration of Bonds

Bonds issued by the authority under this subchapter constitute negotiable instruments within the meaning of the law of this state pertaining to negotiable instruments. Before any bonds are sold by the authority, a certified copy of the proceedings for the issuance thereof, including the form of the

bonds, together with any other information which the attorney general may require, shall be submitted to the attorney general, and if he or she finds that the bonds are issued in accordance with the law, including compliance with Section 54.516 of this code, he or she shall approve the bonds and execute a certificate of approval that shall be filed in the office of the state comptroller and shall be recorded in a record kept for that purpose. No bonds are to be issued until registered by the state comptroller, who is to register the bonds if the attorney general has filed with the comptroller his or her certificate approving the bonds and the proceedings for the issuance of the bonds. If bonds or the proceedings pertaining to bonds recite that they are secured by a pledge of the proceeds of a contract made with the authority, a copy of the contract and proceedings of the contracting parties shall be submitted to the attorney general with the bond record, and if the bonds have been duly authorized and the contract made in compliance with law, the attorney general shall approve the bonds and contract and the bonds shall be registered by the state comptroller. If approved, the bonds and contract are valid and binding and incontestable for any cause. Whenever the authority has issued bonds, including interim or temporary bonds, or has contracted with the United States or the State of Texas, or any corporation or agency of either or any other entity in connection with the financing of its works or facilities, the authority may validate the bonds or contracts by suit in the manner and with the same effect as provided by Chapter 51 of this code.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.139. Interim or Temporary Bonds

Pending the issuance of definitive bonds, the authority is authorized to issue and deliver interim or temporary bonds. The interim or temporary bonds issued may be taken up with the proceeds of the definitive bonds or the definitive bonds may be issued and delivered in exchange for and in substitution of the interim or temporary bonds. After any exchange and substitution, it is the duty of the authority to file proper certificates with the state comptroller, as to the exchange, substitution, and cancellation of the bonds. The certificates are to be recorded by the state comptroller.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.140. Refunding Bonds

The board may issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this subchapter and the interest on the bonds without the necessity of an election. Refunding bonds may be issued to refund more than one series of outstanding bonds, and in the case of bonds secured in whole or in part by net revenues, the authority may combine the pledges for the

outstanding bonds for the security of the refunding bonds and may secure them by other or additional revenues. The provisions of this subchapter with reference to the issuance of other bonds and their approval by the attorney general and the rights and remedies of the holders are to be applicable to refunding bonds. Refunding bonds are to be registered by the comptroller on the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they are to be sold and their proceeds deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the comptroller is to register them without concurrent surrender and cancellation of the original bonds.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.141. Securing Bonds with Trust Indenture

Any bonds, including refunding bonds, authorized by this subchapter, not payable wholly from ad valorem taxes, may be secured additionally by a trust indenture under which the trustee is a bank having trust powers and is located either within or without the State of Texas. The trust indenture or mortgage may include provisions for a lien on all or any part of the physical properties of the authority and franchises, easements, water rights and appropriation permits, leases, and contracts, and all rights appurtenant to these properties, vesting in the trustee, in the event of default, power to operate the properties and all other powers for the further security of the bonds. The trust indenture, regardless of the existence of the deed of trust lien, may contain any provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, including provision for an amendment or modification of the trust indenture, and the issuance of bonds to replace lost or mutilated bonds secured by the trust indenture. Any purchaser in a sale under the deed of trust lien where one is given is the owner of the properties, facilities, and rights purchased and has the right to maintain and operate them during the period prescribed by the trust indenture.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.142. Approval of Bonds at an Election

No bonds supported by taxes, except refunding bonds, may be issued unless authorized by an election in the manner provided by Chapter 54 of this code for bond elections.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.143. Bonds as Investments and Security

All bonds of the authority are legal and authorized investments for banks, savings banks, trust com-

panies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the state or its agencies, including the permanent school fund. The bonds are eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and the bonds are lawful and sufficient security for those deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant thereto.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.144. District Free from Taxes

The accomplishment of the purposes stated in this chapter being for the benefit of the people of this state and for the improvement of their properties and industry, the authority in carrying out the purpose of this chapter will be performing an essential public function under the constitution and is not required to pay any tax or assessments on all or any part of the project, and the bonds or other obligations issued under this subchapter and their transfer and the income from the bonds including the profits on the sale of the bonds is at all times free from taxation by the state or by any district, municipal corporation, county, or other political subdivision or taxing authority of the state, provided that the authority shall be responsible for and subject to payment of ad valorem tax on all leased or owned property within the state, but outside the jurisdiction of the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.145 to 64.180 reserved for expansion]

SUBCHAPTER G. TAXATION

§ 64.181. Tax Procedures

After an election in which a majority of those voting give their approval, taxes may be levied, assessed, and collected by the authority on an ad valorem basis to provide funds for all lawful purposes of the authority, including maintenance, operation, administration, and other expenses. Provisions of Chapter 54 of this code relating to the election for voter approval and the levy, assessment, and collection of taxes, including enforcement, and the processes for the collection of delinquent taxes are applicable to an authority. Ad valorem taxes assessed and collected by an authority are to be uniform and equal.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.182. Tax Officers

(a) Where applicable and not in conflict with this subchapter, the laws contained in Chapter 54 of this code, with reference to tax assessors and collectors, boards of equalization, tax rolls, and the levy, assessment, and collection of taxes and delinquent taxes are applicable to the authority, except that the board of equalization to be appointed each year by the board is to consist of at least one qualified resident property taxpayer in each county, any portion of which is within the authority.

(b) Instead of proceeding for the assessment, equalization, and collection of taxes in the manner provided in this chapter, the board may adopt an order to have the taxes of the authority assessed and collected by the assessor and collector of taxes of any political subdivision of the state. On the adoption of the order, the taxes shall be assessed and collected by these officials and turned over to the authority depository. The compensation of these officials shall be as agreed upon by the officials and the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.183 to 64.210 reserved for expansion]

SUBCHAPTER H. ASSESSMENTS

§ 64.211. Authorization of Assessments

For the purpose of making payments pursuant to contracts entered into by the authority with the United States, the state, or districts, the authority, in addition to the revenues and taxes otherwise provided in this chapter, may make assessments apportioned in accordance with the benefits and, for this purpose, may establish zones of benefit which reflect the degree of benefit resulting to each zone from the contracts.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.212. Considerations in Making Assessments and Establishing Zones

(a) In ascertaining the benefits derived through a contract, and in establishing zones of benefit, the authority shall consider all of the following:

- (1) improvement in the underground water supply;
- (2) the contribution to the underground water supply by water made available independently of the authority;
- (3) the adequacy of the water supply made available independently of the authority;
- (4) the prospective need for a water supply;
- (5) extractions from the underground water supply in excess of natural and artificial recharge, not including naturally occurring underground water;

(6) the economic impact resulting from the water supply made available under the contract or contracts;

(b) provided, however, areas not receiving a water supply or a direct improvement in the underground water supply by reason of the contract shall not be assessed;

(c) nor shall any area not within the authority be assessed by the authority; and

(d) benefits derived from all imported water used in similar zones of benefit shall be given equal consideration and assessed on an equal basis.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.213. Notice and Hearing

(a) No assessment is to be levied under this subchapter unless the board, by resolution, declares that it intends to do so and that a public hearing is held on the assessment at a specified day, hour, and place within the proposed zone of benefit at which all interested persons may appear and be heard.

(b) Notice of this resolution shall be published once a week for two consecutive weeks in a newspaper or newspapers of general circulation in the authority and in the general area of the proposed zone of benefit.

(c) The hearing may be adjourned from time to time at the discretion of the board, and at the conclusion of the hearing, the board may declare the zone or zones of benefit established and the assessment to be levied under this subchapter.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.214. Basis of Assessment

Assessments made within zones of benefit shall be levied on all taxable property within the zone of benefit on an ad valorem basis.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.215. Election

Before an assessment may be levied and collected in a zone of benefit, an election shall be held in the zone, as designated by the authority, in the same manner and under the same procedure as an election for a tax election conducted under Chapter 54 of this code.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.216 to 64.250 reserved for expansion]

SUBCHAPTER I. ANNEXATION

§ 64.251. Annexation Authority

Additional territory may be added to the authority with its prior consent by annexation in the manner provided in this subchapter.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.252. Petition for Annexation

(a) A petition requesting annexation, signed by at least 50 or by a majority of the qualified voters residing within the territory to be annexed, who own taxable property in the territory and who have duly rendered the property for taxation to the city, town, county, or state, shall be filed with the board.

(b) The petition shall describe the territory proposed to be annexed by metes and bounds or by other appropriate description which fully identifies the territory in compliance with the laws of this state.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.253. Hearing

If the petition is signed by the required number of qualified voters and complies with Section 64.252 of this code, the board, provided two-thirds of all members vote in favor thereof, shall adopt a resolution stating the conditions, if any, under which the territory may be annexed to the authority, and shall set a time and place for a hearing to be held on the questions of whether the territory will be benefitted by the proposed annexation, whether the annexation will result in an undue burden or disadvantage to the authority, and whether an election to approve the annexation should be called.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.254. Notice of Hearing

(a) Notice of the adoption of a resolution setting the time and place of hearing shall be published at least one time in one or more newspapers designated by the board of directors, and the newspaper or newspapers individually or collectively shall have general circulation in the authority and in the territory proposed to be annexed. The notice shall be published at least 10 days before the date of the hearing.

(b) The notice shall describe the territory in the same manner as the petition.

(c) At least 30 days before the hearing, the secretary of the board also shall send, by certified mail, a notice of the hearing addressed to each of the following persons and entities:

(1) the mayor and the elected governing body of each incorporated city or town located in the existing authority;

(2) the mayor and the elected governing body of each incorporated city or town located in the territory propose to be annexed;

(3) the county judge and commissioners court of each county that is located in whole or in part in the authority;

(4) the county judge and the commissioners court of each county that is located in whole or in part in the territory proposed to be annexed; and

(5) each district that has previously entered into a written contract to purchase water from the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.255. Hearing Procedure

(a) Interested persons who reside within the authority or within the territory seeking annexation may appear at the hearing and offer evidence for or against the proposed annexation.

(b) The hearing may proceed in the order and under the rules prescribed by the board, and the hearing may be recessed from time to time.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.256. Findings and Resolution; Election

If, at the conclusion of the hearing, the board finds that the land in the territory will be benefitted by the proposed annexation, and further finds that the proposed annexation will not result in an undue burden or disadvantage to the existing authority, it shall adopt a resolution calling an election in the authority and in the territory to be annexed, stating the proposition or propositions to be voted on, the date of the election, and the place or places of holding the election, and appointing a presiding judge for each voting place. The presiding judge shall appoint the necessary assistant judges and clerks to assist in holding the election. The authority is authorized to conduct the elections.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.257. Notice of Election

Notice of election, stating the election date, the proposition or propositions to be voted on, the conditions under which the territory may be annexed, or making reference to the resolution of the board of directors fixing the conditions, and the place or places for holding the election, shall be published at least one time in a newspaper or newspapers designated by the board and published in the territory to be annexed, the newspaper or newspapers individually or collectively having general circulation in the territory, and also published one time in a newspaper or newspapers designated by the board and published within the authority, such newspaper or newspapers individually or collectively having general circulation in the authority. Each publication shall be made at least 10 days before the day set for the election. If, in the territory or in the authority, no newspaper or newspapers qualify, the authority or territory may accomplish publication by publishing at least 10 days before the date set for the election in a newspaper or newspapers, designated by the board, which individually or collectively have

general circulation within the territory or the authority, as the case may be.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.258. Voter Qualification; Election Procedure

The qualifications of voters in elections held under this subchapter are those specified in the constitution and the procedures for conducting elections and for voting are those specified in the Texas Election Code, except as otherwise provided by this chapter.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.259. Conduct of Elections

The board may call, supervise, conduct, make returns, canvass, and declare results, and otherwise provide for the proper conduct of elections.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.260. Canvass and Election Results

(a) Not less than three nor more than seven days after the election, or as soon after that time as practicable, the board shall canvass the returns and shall adopt a resolution declaring the results.

(b) If the resolution shows that a majority of the votes cast in the election held within the authority and a majority of the votes cast in the election held within the territory both favor the annexation, the annexation shall be considered to be fully accomplished as of the time the board declares the results, and the annexation shall be incontestable except in the manner and within the time for contesting elections under Chapter 54 of this code.

(c) A certified copy of the order shall be recorded in the deed records of the county, and in each of the counties if there are more than one in which the territory is located.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.261. Assumption of Debt; Taxes

(a) In calling an election for the proposition of annexation of territory, the board of directors shall include as a part of the same election, the proposition of assumption of the proposed territory's proportionate part of all tax supported indebtedness and obligations of the authority then outstanding and in force and in the case of bonds, those previously voted, but not yet sold.

(b) The levy and collection of ad valorem taxes on taxable property in the territory are on the same basis as taxes are levied on the remainder of the authority.

(c) Unless the board finds it inequitable to do so at the same election there may be submitted in the territory to be annexed a proposition for assessment

and collection of taxes in the territory to enable the territory to pay the authority, in installments as may be required by the board, an amount of money to be determined by the board which represents equitable reimbursement for a proper proportionate share of costs that the authority has previously paid or incurred for work or works which may afford benefits to the territory.

(d) If each of the propositions submitted carries by a majority vote, both in the territory and in the authority, the territory shall be annexed and shall become a part of the authority. Otherwise, the territory is not annexed.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.262. Other Method of Annexation

The owner or owners of land contiguous to an authority or otherwise may be included in the authority in the same manner and under the same conditions as provided by Sections 54.711 through 54.715 of this code.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.263. Furnishing Description

The board shall furnish the development board a detailed description of land annexed to the authority within 30 days after the annexation.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

[Sections 64.264 to 64.300 reserved for expansion]

SUBCHAPTER J. DISANNEXATION

§ 64.301. Disannexation Authority

A county in the authority may be disannexed from the authority in the manner provided in this subchapter.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.302. Petition for Disannexation

(a) A petition requesting disannexation, signed by at least five percent of the qualified voters residing within the county to be disannexed, who own taxable property in the county and who have duly rendered the property for taxation to the county or to the state, shall be filed with the board. An election held under this section may not be held more than one time every 12 months.

(b) The petition shall name the county to be disannexed and shall request the board to call and hold an election in the county to determine whether or not the qualified voters of the county desire that the county be disannexed from the authority.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.303. Election

On receiving a petition under Section 64.302 of this code, the board shall adopt a resolution calling an election in the county named in the petition, stating the proposition or propositions to be voted on, the date of the election, and the place or places of holding the election, and appointing a presiding judge for each voting place. The presiding judge shall appoint the necessary assistant judges and clerks to assist in holding the election. The authority is authorized to conduct the election.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.304. Notice of Election

Notice of election, stating the election date, the proposition or propositions to be voted on, and the place or places for holding the election, shall be published at least one time in a newspaper or newspapers designated by the board and published in the county to be disannexed, the newspaper or newspapers individually or collectively having general circulation in the county. Publication of notice shall be made at least 10 days before the day set for the election. If, in the county, no newspaper or newspapers qualify, the authority may accomplish publication by publishing at least 10 days before the date set for the election in a newspaper or newspapers, designated by the board, which individually or collectively have general circulation within the county.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.305. Voter Qualification; Election Procedure

The qualifications of voters in elections held under this subchapter are those specified in the constitution and the procedures for conducting elections and for voting are those specified in the Texas Election Code, except as otherwise provided by this chapter.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.306. Conduct of Elections

The board may call, supervise, conduct, make returns, canvass, and declare results, and otherwise provide for the proper conduct of elections.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.307. Canvass and Election Results

(a) Not less than three nor more than seven days after the election, or as soon after that time as practicable, the board shall canvass the returns and shall adopt a resolution declaring the results.

(b) If the resolution shows that a majority of the votes cast in the election held within the county favor the disannexation, the disannexation shall be considered to be fully accomplished as of the time the board declares the results, and the disannexa-

tion shall be incontestable except in the manner and within the time for contesting elections under Chapter 54 of this code.

(c) A certified copy of the order shall be recorded in the deed records of the county.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

§ 64.308. Taxes on Disannexed Land

(a) If a county is disannexed from the authority at a time when the authority has outstanding debt, the disannexed county is not released from the payment of its pro rata share of the indebtedness.

(b) The authority shall continue to levy taxes each year on property in the county at the same rate levied on other property of the authority, until the taxes collected from the county equal its pro rata share of the indebtedness of the authority at the time of the disannexation of the county.

(c) The taxes collected under Subsection (b) of this section shall be charged only with the cost of levying and collecting the taxes and shall be applied exclusively to the payment of the pro rata share of the indebtedness.

[Acts 1979, 66th Leg., p. 2085, ch. 816, § 1, eff. Aug. 27, 1979.]

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SUBCHAPTER A. GENERAL PROVISIONS

§ 65.001. Definitions

In this chapter:

- (1) "District" means a special utility district operating under this chapter.
- (2) "Board" means the board of directors of a district.
- (3) "Director" means a member of the board of directors of a district.
- (4) "Commission" means the Texas Water Commission.
- (5) "Executive director" means the executive director of the Texas Department of Water Resources.
- (6) "Public agency" means any city, the United States and its agencies, the State of Texas and its agencies, and any district or authority created under Article XVI, Section 59, or Article III, Sections 52(b)(1) and (2), of the Texas Constitution.
- (7) "City" means any incorporated city or town.
- (8) "Extraterritorial jurisdiction" means the extraterritorial jurisdiction of a city as defined in the Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes).
- (9) "Sole expense" means the actual cost of relocating, raising, lowering, rerouting, changing grade, or altering the construction to provide comparable replacement without enhancing the facility, after deducting the net salvage value derived from the old facility.
- (10) "Water supply corporation" means any member-owned, consumer-owned water supply corporation created and operating under Chapter 76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes), that on or before January 1, 1983, was providing the services of a water supply corporation under a certificate of convenience and necessity issued by the Public Utility Commission of Texas.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.002 to 65.010 reserved for expansion]

SUBCHAPTER B. CREATION OF DISTRICT;
CONVERSION OF DISTRICT

§ 65.011. Creation of District

A special utility district may be created under and subject to the authority, conditions, and restrictions of, and is considered a conservation and reclamation district under Article XVI, Section 59, of the Texas Constitution.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.012. Purposes of District

A district may be created for the following purposes:

- (1) to purchase, own, hold, lease, and otherwise acquire sources of water supply; to build, operate, and maintain facilities for the transportation of water; and to sell water to towns, cities, and other political subdivisions of this state, to private business entities, and to individuals;
- (2) the establishment, operation, and maintenance of fire-fighting facilities to perform all fire-fighting activities within the district; and
- (3) the protection, preservation, and restoration of the purity and sanitary condition of water within the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.013. Composition of District

(a) A district may include the area in all or part of any one or more counties including all or part of any cities and other public agencies.

(b) The land composing a district is not required to be contiguous, but may consist of separate bodies of land separated by land that is not included in the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.014. Certified Resolution Seeking Creation of District

(a) If creation of a district is proposed by a water supply corporation, a certified copy of a resolution requesting creation must be filed with the commission.

(b) The resolution shall be signed by the president and secretary of the board of directors of a water supply corporation and shall state that the water supply corporation, acting through its board of directors, has found that it is necessary and desirable for the water supply corporation to be converted into a district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.015. Contents of Resolution

In addition to the requirements stated in Section 65.014 of this code, the resolution shall:

- (1) describe the boundaries of the proposed district by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of the area, or by any other commonly recognized means in a certificate attached to the resolution executed by a registered professional engineer;
- (2) state the general nature of the services presently performed by the water supply corporation, the general nature of the services proposed to be provided by the district, and the necessity for the services provided by the district;

(3) include a name of the district that is generally descriptive of the location of the district followed by the words special utility district, but may not be the same name as any other district in the same county; and

(4) include the names of not less than five and not more than 11 qualified persons to serve as the initial board of directors of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.016. Consent of City

A district may operate within the corporate limits of a city or within the extraterritorial jurisdiction of a city, provided that a city may require that the district construct all facilities to serve the land in accordance with plans and specifications that are approved by the city. The city may also require that the city be entitled to inspect facilities being constructed by a district within the corporate limits or extraterritorial jurisdiction of the city.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.017. Deposit

(a) A resolution filed with the commission must be accompanied by a deposit of \$250 that is paid to the commission for use by the state, and no part of the deposit may be returned except as provided by Subsection (d) of this section.

(b) The deposit shall be deposited with the state treasurer to be held in a special trust account until the commission either grants or denies the request to allow the water supply corporation to convert into a district.

(c) On granting or denying the request, the commission shall direct the state treasurer to transfer the deposit from the special trust account to the general revenue fund.

(d) If at any time before the hearing on the resolution the board of directors that submitted the resolution desires to withdraw the resolution, the commission shall direct the refund of the deposit to the board of directors or to its attorney of record, whose receipt for the deposit is sufficient evidence of refund.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.018. Establishing Date of Hearing

(a) On the filing of a resolution, the commission shall set a date, time, and place at which the resolution will be heard and shall issue notice of the date, time, and place of hearing.

(b) The notice shall inform all persons of their right to appear and present evidence and testify for or against the material included in the resolution, the form of the resolution, the necessity and feasibility of the water supply corporation's request for

conversion, and the benefits to accrue from conversion.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.019. Notice of Hearing

(a) Notice of the hearing must be published in a newspaper with general circulation in each county in which the district is located once a week for two consecutive weeks. The first publication must be at least 14 days before the date set for the hearing.

(b) Notice of the hearing shall also be given by mailing a copy of the notice to the Public Utility Commission of Texas and to each city that has extraterritorial jurisdiction in a county in which the proposed district is to be located and that has formally requested notice of the creation of all districts in that county.

(c) The request by a city for notice of any hearing on the creation of a district must be filed annually with the commission during January. The request shall state the names of not more than two persons who are to receive the notice on behalf of the city and the mailing addresses of those persons.

(d) A certificate of a representative of the commission that shows notice was mailed to each city that has extraterritorial jurisdiction in a county in which the proposed district is to be located and that has formally requested notice is conclusive evidence that notice was properly mailed to each city.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.020. Hearing

(a) At the hearing, the commission shall examine the resolution to determine if it is sufficient, and any person interested may appear before the commission in person or by attorney and offer testimony on the sufficiency of the resolution and whether or not the request for conversion is feasible and practicable and is necessary and would be a benefit to all or any part of the land proposed to be included in the district.

(b) The commission has jurisdiction to determine all issues on the sufficiency of the resolution and the creation of the district.

(c) The hearing may be adjourned from day to day, and the commission may make all incidental orders necessary with respect to the matters before it.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.021. Granting or Refusing Creation of District

(a) After the hearing on the resolution, if the commission finds that the resolution conforms to the requirements of Section 65.015 of this code and that the request for conversion is feasible and practicable and is necessary and would be a benefit to

the land proposed to be included in the district, the commission shall make these findings in an order and shall authorize the creation of the district on approval at the confirmation and directors' election called and held under this subchapter.

(b) In determining if the request for conversion is feasible and practicable and if it is necessary and would be a benefit to the land included in the district, the commission shall consider:

(1) the availability of comparable service from other systems, including water districts, municipalities, and regional authorities;

(2) the reasonableness of projected construction costs, if any, tax rates, and water and sewer rates; and

(3) whether or not the district and its system and subsequent development within the district will have an unreasonable effect on the following:

(A) land elevation;

(B) subsidence;

(C) groundwater level within the region;

(D) recharge capability of a groundwater source;

(E) natural runoff rates and drainage; and

(F) water quality.

(c) If the commission finds that not all of the land proposed to be included in the district will be benefited by the creation of the district, the commission shall formally make this finding and shall exclude all land that is not benefited from the proposed district and shall redefine the proposed district's boundaries accordingly.

(d) If the commission finds that the resolution does not conform to the requirements of Section 65.015 of this code or that the request for conversion is not feasible, practicable, necessary, or a benefit to the land in the district, the commission shall make this finding in its order and shall deny the creation of the district.

(e) A copy of the order of the commission granting or denying the request for conversion stated in the resolution must be mailed to each city that has extraterritorial jurisdiction in a county in which the proposed district is located and that requested notice of hearing as provided by Section 65.019 of this code.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.022. Temporary Directors

If the commission authorizes the creation of the district, it shall appoint those persons whose names are listed in the resolution filed with the commission by the water supply corporation to serve as temporary directors until initial directors are elected as provided by this subchapter.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.023. Appeal From Order of Commission

A city or a person who appeared in person or by attorney and offered testimony for or against the creation of the district, may appeal from the order of the commission authorizing or refusing the creation of the district. The appeal must be made within 30 days after the entry of the order.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.024. Qualification and Organization of Temporary Directors

On appointment, each temporary director shall execute his bond as provided by Section 65.116 of this code and shall take his oath of office, and the board shall meet and organize.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.025. Confirmation and Directors' Election

On the first available uniform election date following the commission's order approving creation of the district, an election must be held within the boundaries of the proposed district to determine if the proposed district will be created and to elect initial members to the board of directors.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.026. Notice of Confirmation and Directors' Election

(a) The temporary board shall give notice of the confirmation and directors' election.

(b) The notice must include the date and place or places for holding the election, the creation proposition, and a statement that directors are to be elected for the district.

(c) The notice must be published once a week for two consecutive weeks in a newspaper with general circulation in each county in which the proposed district is to be located. The first publication of notice must be at least 14 days before the date set for the election.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.027. Election Ballot

(a) The ballot for the election shall be printed to provide for voting for or against: "Creation of the district."

(b) The names of the temporary directors shall be printed on the ballot as candidates for membership on the board.

(c) Each person voting at the election may vote for not more than a total number of candidates that is equal to the number of persons that are serving on the temporary board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.028. Election Results

(a) Immediately after the confirmation and directors' election, the presiding judge for each voting place shall make returns of the results of the election to the temporary board.

(b) The temporary board shall canvass the returns and, by order, shall declare the results of the election at the earliest practicable time.

(c) If a majority of the qualified voters voting at the election votes to create the district, the temporary board shall declare the district created. If a majority of the qualified voters voting at the election votes against creation of the district, the temporary board shall declare the district not to be created.

(d) If the temporary board declares the district created, it shall also declare to be elected as the initial directors of the district the appropriate number of persons receiving the highest number of votes. The appropriate number is the number of members of the temporary board.

(e) The temporary board shall file a copy of its order declaring the election results in its minutes and also shall file copies with the executive director and in the deed records of each county in which the district is located or was to be located.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.029. Supervision by Commission

The rights, powers, privileges, authority, and functions conferred on a district by creating the district are subject to the continuing right of supervision of the state to be exercised by and through the commission and the executive director.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.030 to 65.100 reserved for expansion]

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

§ 65.101. Board of Directors

A district is governed by a board of not less than five and not more than 11 directors.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.102. Qualifications for Directors

To be qualified to serve as a director, a person must be:

- (1) at least 18 years old;
- (2) a resident citizen of this state; and
- (3) either own land subject to taxation in the district, be a user of the facilities of the district, or be a qualified voter of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.103. Election of Directors; Terms of Office

(a) The persons receiving the highest number of votes at each election shall serve as directors of the district.

(b) The terms of the directors may run concurrently, or may be staggered, but in any event, the term of office of a director may not exceed three years.

(c) The method for determining the initial terms for each of the directors constituting the initial board shall be determined by the temporary directors, and the terms must be clearly stated on the ballot for the confirmation and directors' election. At subsequent elections in each following year in which there is an election, the election must be held on the same uniform election date as the confirmation and directors' election, and the terms of the directors being elected must be stated on the ballot.

(d) The election of directors must be held in a district on one of the dates provided by Section 9b, Texas Election Code (Article 2.01b, Vernon's Texas Election Code).

(e) The permanent directors may assign a position number to each director's office, and each director subsequently shall be elected by position and not at large.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.104. Application to Get on Ballot

(a) Except for the first elected board of directors, a candidate for the office of director must file with the secretary of the board of directors or any agent who may be designated by the board his application to have his name printed on the ballot.

(b) An application must be signed by a candidate or by 10 qualified voters of the district and must be filed at least 31 days before the election.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.105. Vacancies on Board

(a) A vacancy in the office of director or any office on the board shall be filled by appointment of the board for the unexpired term.

(b) If at any time the number of qualified directors is less than three because of the failure or refusal of one or more directors to qualify or serve, because of death, or incapacitation, or for any other reason, the commission, on the petition of any landowner in the district, shall appoint the necessary number of directors to fill vacancies on the board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.106. Organization of Board; Election of Officers

After the issuance of the order by the commission creating the district, and after the directors elected

at each election have qualified by executing a bond and taking the oath of office, the board shall organize by electing a president, a vice-president, a secretary, and any other officers that are considered necessary by the board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.107. Quorum; Officers' Duties

(a) A majority of the directors constitutes a quorum for the transaction of business, and each director is entitled to a vote.

(b) The district shall act and proceed by and through resolutions adopted by the board, and the affirmative vote of a majority of the directors present is necessary to adopt a resolution.

(c) The president shall preside at all meetings of the board and is the chief executive officer of the district. The vice-president shall act as president in the absence or on disability of the president.

(d) The secretary shall act as president if both the president and vice-president are absent or disabled. The secretary shall act as secretary of the board and is responsible for the proper keeping of records, books, and accounts of the district.

(e) The board may appoint a director, the general manager, or an employee as assistant or deputy secretary to assist the secretary, and that person is entitled to certify the authenticity of any record of the district, including proceedings relating to bonds, contracts, or indebtedness of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.108. Bylaws

The board may adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees;
- (5) the keeping of records, books, and accounts; and
- (6) other matters that the board considers appropriate.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.109. Meetings and Notice

(a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as the business of the district requires.

(b) The board shall hold its meetings within the district unless the board by a majority vote at a

public meeting votes to hold the meetings outside the district.

(c) Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), is applicable to meetings of the board of directors.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.110. District Office and Meeting Place

(a) The board shall designate and establish a district office and meeting place within the district, and the board may also establish a meeting place outside the district. Either or both district meeting places may be a private residence or office provided the board in its order establishing the meeting place declares it to be a public place and invites the public to attend any meeting of the board.

(b) If the board establishes a meeting place outside the district, it shall give notice of the location by filing a copy of the resolution establishing the location of the district office with the commission and also by publishing notice of the location in a newspaper of general circulation in each county in which the district is located. If the location of the meeting place outside the district is changed, notice of the change must be given in the same manner.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.111. Management of District

(a) The board of directors shall have control over and management of all the affairs of the district and shall employ all persons considered necessary by the board for the conduct of the affairs of the district, including engineers, attorneys, financial advisors, a general manager, a utility operator, bookkeepers, auditors, and secretaries:

(b) The board shall determine the terms of service and the compensation of employees and consultants by contract or by resolution of the board.

(c) Employees may be dismissed by the board or the designated manager of the district.

(d) The board may require a bond of any officer or employee payable to the district and conditioned on the faithful performance of his duties.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.112. Supplies

The board is entitled to purchase all materials, supplies, equipment, vehicles, and machinery needed by the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.113. Seal

The directors shall adopt a seal for the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.114. Fees of Office

(a) Each director is entitled to receive as fees of office not less than \$25 nor more than \$100 per month for each month of service as determined by the board.

(b) The fees may not exceed \$100 in any one month regardless of the number of days of necessary service during that month.

(c) On approval by the board, a director may be reimbursed for travel or other expenses incurred on behalf of the district on presentation to the board of a verified statement.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.115. Director Not to be Employee of District

A director may not be employed by the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.116. Bond and Oath of Office

(a) Each director shall take the oath of office prescribed by the constitution for public officers.

(b) As soon as practicable, each director appointed as an officer shall execute a bond in an amount established by the board payable to the district and conditioned on the faithful performance of his duties as stated in the bylaws of the district.

(c) Each bond of a director must be approved by the board.

(d) The bond and oath must be filed with the district and retained in its records.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.117. Records

(a) Original minutes and orders of the board, construction contracts and related instruments, bonds of the district's board, and bonds of the district's officers and employees shall be kept in a safe place and maintained as permanent records of the district.

(b) Minutes and orders of the board may not be destroyed.

(c) All records necessary for the district's annual audits and necessary to comply with the terms of its bond orders or resolutions must be retained for at least one full year after the expiration of the preceding fiscal year.

(d) A district contract, other than a construction contract, and the records relating to it must be retained for at least four years after the performance of the contract.

(e) Except as specifically provided by this section, a district's records may be destroyed if the board determines that the records are no longer needed or useful. If district records are to be destroyed, the board shall designate the person to destroy them and the manner of the destruction. If the board considers it advisable, it may have any instruments to be destroyed inventoried or microfilmed before they are destroyed.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.118. Suits

(a) A district created under this chapter is a governmental agency and a body politic and corporate and is declared to be a defined district within the meaning of Article XVI, Section 59, of the Texas Constitution and may, through its directors, sue and be sued in any court of this state in the name of the district. Service of process in a suit may be accomplished by serving any two directors.

(b) The courts of this state shall take judicial notice of the establishment of any districts.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.119. Contracts

A district shall contract and be contracted with in the name of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.120. Elections

(a) Unless otherwise provided, notice of an election ordered by the board shall be given by publication once a week for two consecutive weeks with the first publication in a newspaper with general circulation in each county in which a district is located for at least 14 days before the date of the election.

(b) Notice of the election also shall be posted in two public places in the district at least 14 days before the date of the election.

(c) Each clerk for absentee voting is not required to be a resident or qualified voter in the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.121. Employee Benefits

(a) The board may provide for and administer a retirement, disability, and death compensation fund for the officers and employees of the district and may adopt plans to carry out the purpose of this section, including the forms of insurance and annuities that are considered advisable by the board. The board, after notice to the employees and a hearing, may change any plan or rule.

(b) Money provided from the compensation of the officers and employees participating in the fund and plan authorized by this section and by the district for the retirement, disability, and death compensa-

tion fund, after the money has been received by the district, shall be invested as the board considers advisable.

(c) The money may be invested in the following manner:

(1) in bonds of the United States, this state, any county, city, or other political subdivision of this state, or in bonds issued by any agency of the United States, the payment of the principal of and interest on which is guaranteed by the United States; and

(2) in life insurance policies, endowment or annuity contracts, or interest-bearing certificates of legal reserve life insurance companies authorized to write those contracts in this state.

(d) A sufficient amount of the money shall be kept on hand to meet the immediate payment of amounts likely to become due each year out of the fund as determined by the board.

(e) The recipients or beneficiaries from the fund are not eligible for any other pension, retirement fund, or direct aid from this state, unless the fund created under this section is released to this state as a condition precedent to receiving the other pension, aid, or membership in any other system.

(f) The board may include hospitalization and medical benefits to their officers and employees as part of the compensation currently paid to the officers and employees and may adopt any plan, rule, or regulation in connection with it and amend or change the plan, rule, or regulation as it may determine.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.122. Workers' Compensation

The board may also become a subscriber under the workers' compensation law.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.123 to 65.200 reserved for expansion]

SUBCHAPTER D. GENERAL POWERS AND DUTIES

§ 65.201. Powers

(a) A district has the functions, powers, authority, and rights that will permit accomplishment of the purposes for which it is created.

(b) A district may purchase, construct, acquire, own, operate, maintain, repair, improve, or extend inside and outside its boundaries any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish the purposes for which it was created, including works, improvements, facilities, plants, equipment, and appliances incident, helpful, or necessary to:

(1) supply water for municipal uses, domestic uses, power and commercial purposes, and other beneficial uses or controls;

- (2) collect, transport, process, dispose of, store, and control domestic, industrial, or communal wastes whether in fluid, solid, or composite state;
- (3) gather, conduct, divert, and control local storm water or other local harmful excesses of water in the district;
- (4) irrigate the land in a district;
- (5) alter land elevation in a district where it is needed; and
- (6) provide fire-fighting services for the inhabitants of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.202. Acquisition of Existing Facilities

If a district acquires existing works, improvements, facilities, plants, equipment, and appliances, including those works, improvements, facilities, plants, equipment, and appliances owned by the district's predecessor water supply corporation, that are completed, partially created, or under construction, a district may assume the contracts and obligations of the previous owner and perform the obligations of the previous owner in the same manner and to the same extent that any other purchaser or assignee would be bound.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.203. Solid Waste

A district may collect solid waste and may purchase, construct, acquire, own, operate, maintain, repair, improve, and extend a solid waste collection and disposal system inside and outside the district and may make proper charges for its facilities or services provided by the system.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.204. Fees and Charges

(a) A district may adopt and enforce necessary charges, including standby charges, fees, or rentals, for providing any district facilities or services.

(b) A district may require a deposit for any services or facilities furnished, and the district may or may not provide that the deposit will bear interest.

(c) A district may discontinue a facility or service to prevent an abuse or enforce payment of an unpaid charge, fee, or rental due to the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.205. Adopting Rules

A district may adopt and enforce reasonable rules to:

- (1) secure and maintain safe, sanitary, and adequate plumbing installations, connections, and appurtenances as subsidiary parts of its sanitary sewer system;

- (2) preserve the purity and the sanitary condition of all water controlled by the district;
- (3) prevent waste or the unauthorized use of water controlled by the district;
- (4) regulate privileges on any land or easement owned or controlled by the district;
- (5) provide and regulate a safe and adequate freshwater distribution system; and
- (6) ensure adequate safeguards in the performance of the district's fire-fighting activities.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.206. Effect of Rules

After the required publication, rules adopted by the district under Section 65.205 of this code shall be recognized by the courts as if they were penal ordinances of a city.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.207. Publication of Rules

(a) The board shall publish a substantive statement of each rule and the penalty for its violation once a week for two consecutive weeks in one or more newspapers with general circulation in the area in which the district is located.

(b) The substantive statement shall be condensed as far as possible to intelligently explain the purpose to be accomplished or the act forbidden by each rule.

(c) The notice must advise that breach of a rule will subject the violator to a penalty and that the full text of each rule is on file in the principal office of the district at which it may be read by any interested person.

(d) Any number of rules may be included in one notice.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.208. Effective Date of Rules

The penalty for violation of a rule is not effective and enforceable until five days after the last publication of the notice. Five days after the last publication, the published rule takes effect and ignorance of the rule is not a defense to a prosecution for the enforcement of the penalty.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.209. Penalties for Violation of Rules

(a) The board may set reasonable penalties for the breach of any rule of the district, but the board may not set a penalty that provides a fine of more than \$200 or confinement in the county jail for more than 30 days, or both the fine and confinement.

(b) A penalty under this section is in addition to any other penalty provided by the law of this state

and may be enforced by complaints filed in the appropriate court of jurisdiction in the county in which the district's principal office is located.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.210. Enforcement by Peace Officers

A district may employ its own peace officers with power to:

(1) make arrests when necessary to prevent or abate the commission of any offense against the rules of the district and against the law of this state if the offense or threatened offense occurs on any land, water, or easement owned or controlled by the district; and

(2) make an arrest in case of an offense involving injury or detriment to any property owned or controlled by the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.211. Acquisition of Property

(a) A district may acquire land, materials, waste grounds, easements, rights-of-way, and other property considered necessary by the board to accomplish any one or more of the purposes provided by this chapter.

(b) A district may acquire property by gift, grant, or purchase, and the right to acquire property includes property considered necessary for the construction, improvement, extension, enlargement, operation, or maintenance of the works, improvements, facilities, plants, equipment, or appliances of a district.

(c) A district may acquire either the fee simple title to or an easement on public or private land either inside or outside the district and may acquire the title to or an easement on property other than land held in fee.

(d) A district may also lease property on terms and conditions the board determines to be advantageous to the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.212. Eminent Domain

(a) A district may acquire any land, easement, or other property inside the district and may acquire any land, easement, or other property outside the district solely for sewer, water, storm drainage, and flood drainage connections when necessary by condemnation. The district also may elect to condemn either the fee simple title or an easement only.

(b) Except as specifically provided by this section, the right of eminent domain may be exercised in the manner provided in Title 52, Revised Statutes,¹ except that a district is not required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and is not required

to deposit double the amount of any award in any suit.

(c) The proceedings must be instituted under the direction of the board and in the name of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

¹ Generally repealed; see, now, V.T.C.A. Property Code, § 21-001 et seq.

§ 65.213. Costs of Relocation of Property

If the district, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, lowering, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, the necessary relocations, raising, lowering, rerouting, changing of grade, or alteration of construction must be accomplished at the sole expense of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.214. Sale of Surplus Land

Any property or land owned by the district that may be found to be surplus and not needed by the district may be sold by order of the board either at a public or private sale or the land may be exchanged for other land.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.215. Leases

A district may lease to any person all or any part of any facilities constructed or acquired or to be constructed or acquired by it. A lease may include the terms and provisions that the board determines to be advantageous to the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.216. Right to Enter Land

(a) The directors, engineers, and employees of a district may go on any land inside or outside the district to make surveys and examine the land with reference to the location of works, improvements, facilities, plants, equipment, or appliances and to attend to any business of the district.

(b) The district must give notice to the landowner at least 14 days before the date of entry on the land.

(c) If any district activities on the land cause damage to the land or property, the land or property must be restored as nearly as possible to its original condition. The district shall pay all costs of restoration.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.217. Right to Use Road Right-of-Way

A district is granted right-of-way along and across any public, state, or county road or highway, but the district shall restore the road crossed to its previous condition of use, as nearly as possible, at the sole expense to the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.218. Contracts

(a) A district may enter into a contract with any person for the joint ownership and operation of any works, improvements, facilities, plants, equipment, and appliances necessary to accomplish any purpose or function of the district, or a district may purchase an interest in any project used for any purpose or function of the district.

(b) A district may enter into contracts with any person in the performance of any purpose or function of the district.

(c) Without limiting the authority granted by Subsections (a) and (b) of this section, a district may enter into contracts with any person on the terms and conditions the board considers desirable, fair, and advantageous for:

- (1) the purchase and sale of water;
- (2) the collection, transportation, treatment, storage, and disposal of the district's domestic, industrial, and communal wastes or the collection, transportation, treatment, and disposal of domestic, industrial, and communal wastes of other persons;
- (3) the gathering, diverting, and control of local storm water, or other local harmful excess of water;
- (4) the continuing and orderly development of the land and property within the district through the purchase, construction, or installation of works, improvements, facilities, plants, equipment, and appliances that the district may be authorized to do or perform so that, to the greatest extent reasonably possible, considering sound engineering and economic practices, all of the land and property may be placed in a position to ultimately receive the services of the works, improvements, facilities, plants, equipment, and appliances of the district;
- (5) the maintenance and operation of any works, improvements, facilities, plants, equipment, and appliances of the district or of another person;
- (6) the collection, treatment, and disposal of solid wastes collected inside or outside the district; and
- (7) the exercise of any other rights, powers, and duties granted to a district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.219. Source of Contractual Payments

A contract may provide that the district will make payment under the contract from proceeds from the sale of notes or bonds or from any income of the district or any combination of these sources of payment.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.220. Contracts for Materials, Machinery, and Construction of More Than \$25,000

(a) The board shall seek bids for a contract that requires the expenditure of \$25,000 or more for the purchase of materials, machinery, and all things to constitute the works, improvements, facilities, plants, equipment, and appliances of the district or for construction.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids.

(c) The notice for bids shall be published in one or more newspapers with general circulation in the state and one or more newspapers published in each county in which the district is located. If there are more than four counties in the district, notice may be published in any newspaper with general circulation in the district. If no newspaper is published in the county or counties in which the district is located, publication in one or more newspapers with general circulation in the state is sufficient.

(d) The notice shall be published once a week for the two consecutive weeks immediately preceding the date on which the bids are to be opened.

(e) A contract may cover all of the improvements to be provided by the district or the various elements of the improvements may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the improvements will be constructed in stages over a period of years.

(f) A contract may provide for the payment of a total sum that is the completed cost of the improvement or may be based on bids to cover the cost of units of the various elements entering into the work as estimated and approximately specified by the district's engineers, or a contract may be awarded in any other form or composite of forms and to any responsible person or persons that, in the board's opinion, will be most advantageous to the district and result in the best and most economical completion of the district's proposed plants, improvements, facilities, works, equipment, and appliances.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.221. Additional Work; Change Orders

After a contract is awarded and the district determines that additional work is needed or that the character or type of work or facilities should be

changed, the board may authorize change orders to the contract on terms the board may approve.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.222. Construction Bids

(a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the district or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond that accompanied his bid.

(d) The district may specify reasonable additional requirements.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.223. Reports Furnished to Prospective Bidders

The board shall furnish to any person who desires to bid on construction work, and who makes a request in writing, a copy of the engineer's report that shows the work to be done and all details of the work. The board may charge for each copy of the engineer's report an amount sufficient to cover the cost of making the copy.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.224. Provisions of Contracts for Construction Work

(a) A contract entered into by the board for construction work shall conform to this subchapter, and this subchapter is considered a part of the contract and prevails if this chapter and the contract are in conflict.

(b) The contract shall include or have attached to it the specifications, plans, and details for work included in the contract, and all work must be done in accordance with these plans and specifications under the supervision of the board and the district engineer.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.225. Executing and Maintaining Construction Contracts

(a) Contracts for construction work must be in writing and signed by an authorized representative of the district and the contractor.

(b) The contract must be kept in the district's records and be available for public inspection.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.226. Contractor's Bond

Any person to whom a contract is let must give good and sufficient performance and payment bonds as provided by Article 5160, Revised Statutes.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.227. Inspection of and Reports on Construction Work

(a) The board shall have control of construction being done for the district under contract for the purpose of determining whether or not the contract is being fulfilled and shall have the construction work inspected by the district engineer or his assistants.

(b) During the progress of the construction work, the district engineer shall submit to the board detailed written reports showing whether or not the contractor is complying with the contract, and when the work is completed, the district engineer shall submit to the board a final detailed report including as-built plans of the facilities showing whether or not the contractor has fully complied with the contract.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.228. Commission Supervision of Projects and Improvements

(a) During construction of a project or improvement approved by the commission, substantial alterations may not be made in the plans and specifications without the approval of the commission.

(b) The commission or the executive director may inspect the project or improvement at any time during construction to determine if the project or improvement is being constructed as provided by the plans and specifications approved by the commission.

(c) If the commission finds that the project or improvement is not being constructed as provided by the approved plans and specifications, the commission shall give written notice immediately by certified mail to each member of the board of the district and the district's manager.

(d) If within 10 days after the notice is mailed the board does not take steps to ensure that the project or improvement is being constructed as provided by the approved plans and specifications, the commission shall give written notice of this fact to the attorney general.

(e) After the attorney general receives notice under Subsection (d) of this section, he may bring an action for injunctive relief or quo warranto proceed-

ings against the directors. Venue for either suit is in a district court in Travis County.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.229. Payment for Construction Work

(a) The district shall pay the contract price of construction contracts as provided in this section.

(b) The district shall make progress payments under construction contracts based on estimates approved by the district engineer monthly as the work proceeds, or at more frequent intervals as determined by the district engineer.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.230. Contracts for Materials, Machinery, and Construction of \$5,000 or More But Less Than \$25,000

(a) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is \$5,000 or more but less than \$25,000, or if the contract is for a duration of more than two years, competitive bids on uniform written specifications must be requested from at least three bidders.

(b) A contract must be written and must be awarded to the lowest and best bidder.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.231. Contracts With Governmental Agencies

This subchapter does not prohibit a district from purchasing property from public agencies by negotiated contract or without the necessity of advertising for bids.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.232. Personal or Professional Service Contracts

The requirements of this subchapter do not apply to contracts for personal or professional service or for a utility service operator.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.233. Grants, Gifts, Advances, and Loans

A district may accept grants, gifts, advances, and loans in any form from any source approved by the board, including the United States, the state or any of its agencies, any private or public corporation, and any other person and may enter into contracts, agreements, and covenants the board considers appropriate in connection with acceptance of grants, gifts, advances, and loans.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.234. Areawide Waste Treatment

The powers and duties conferred on the district are granted subject to the policy of the state to encourage the development and use of integrated areawide waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state, it being an objective of that policy to avoid the economic burden to the people and the impact on the quality of the water in the state that result from the construction and operation of numerous small waste collection, treatment, and disposal facilities to serve an area when an integrated areawide waste collection, treatment, and disposal system for the area can be reasonably provided.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.235. Service to Areas Outside the District

(a) A district may purchase, construct, acquire, own, operate, repair, improve, or extend works, improvements, facilities, plants, equipment, and appliances necessary to provide a water system and a sewer system, collect solid waste, or provide fire-fighting services for areas contiguous to or in the vicinity of the district provided the district does not duplicate a service of another public agency. A district may not provide a water or a sanitary sewer system or fire-fighting services to serve areas outside the district that are within a city unless the district obtains a resolution or ordinance of the city granting consent for the district to serve the area within the city.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.236 to 65.300 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES RELATING TO FIRE-FIGHTING ACTIVITIES

§ 65.301. Fire Departments

A district may establish, operate, and maintain a fire department to perform all fire-fighting activities within the district as provided by Section 50.055, Water Code.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.302 to 65.400 reserved for expansion]

SUBCHAPTER F. GENERAL FISCAL PROVISIONS

§ 65.401. Disbursement of Funds

A district's money may be disbursed only by check, draft, order, or other instrument and must be signed by at least two authorized signatories, except the general manager, treasurer, or other employee of the district, when authorized by resolution of the board, may sign checks, drafts, orders, or

other instruments on any district operation account without additional signatures.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.402. Purpose for Borrowing Money

The district may borrow money for any district purpose or combination of district purposes.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.403. Bond Anticipation Notes

Bond anticipation notes may be issued for any purpose for which bonds of the district may be issued or may be issued for the purpose of refunding previously issued bond anticipation notes. A district may enter into a covenant with the purchasers of the bond anticipation notes that the district will use the proceeds of the sale of bonds for the purpose of paying or refunding the bond anticipation notes. If the district enters into such a covenant, the board is required to use the proceeds received from sale of the bonds to pay the principal of, interest on, or redemption price on the bond anticipation notes.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.404. Repayment of Organizational Expenses

The board may pay all costs and expenses necessarily incurred in the creation and organization of a district, the cost of investigation and making plans, the cost of the engineer's report, legal fees, and other incidental expenses, and may reimburse any person for money advanced for those purposes. Those payments may be made from money obtained from the issuance of notes or the sale of bonds first issued by the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.405. Premium on Directors' or Employees' Bonds

The board may pay the premium on surety bonds required of director or employees of the district out of available funds of the district including proceeds from the sale of bonds.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.406. Depository

(a) The board, by order or resolution, shall designate one or more banks inside or outside the district to serve as depository for the funds of the district.

(b) Funds of the district must be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds.

(c) To the extent that funds in a depository bank are not insured by the Federal Deposit Insurance

Corporation, the funds must be secured in the manner provided by law for the security of funds of counties of this state.

(d) The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.407. Investments

(a) Funds of the district may be invested and reinvested by the board or its authorized representative in direct or indirect obligations of the United States, the state, or any county, city, school district, or other political subdivision of the state.

(b) Funds of the district may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of this state.

(c) The board, by resolution, may provide that an authorized representative of the district may invest and reinvest the funds of the district and provide for money to be withdrawn from the appropriate accounts of the district for the investments on terms the board considers advisable.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.408. Accounts and Records; Audits

(a) The district shall keep a complete system of accounts, and an audit of its affairs for each year must be prepared in accordance with any procedures or requirements approved by the board, by an independent certified public accountant, or by a firm of independent certified public accountants.

(b) The fiscal year of the district is January 1 through December 31, until changed by the board.

(c) A signed copy of the audit report must be delivered to each member of the board of directors not later than 120 days after the close of each fiscal year, and a copy of the audit must be kept on file at the district office and shall constitute a public record open for inspection by any interested person during normal office hours.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.409. Paid Bonds and Coupons

District bonds and interest coupons or notes when paid shall be delivered to the district or destroyed and evidence of the destruction furnished by the board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.410 to 65.500 reserved for expansion]

SUBCHAPTER G. ISSUANCE OF BONDS AND NOTES

§ 65.501. Issuance of Bonds and Notes

The district may issue its bonds or notes for the purpose of purchasing, constructing, acquiring, owning, operating, repairing, improving, or extending any district works, improvements, facilities, plants, equipment, and appliances needed to accomplish the purposes listed in Section 65.012 of this code, including works, improvements, facilities, plants, equipment, and appliances needed to provide a waterworks system, sanitary sewer system, storm sewer system, solid waste disposal system, or to provide for solid waste collection or fire-fighting services and facilities.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.502. Form of Bonds and Notes

(a) A district may issue its bonds or notes in various series or issues.

(b) Bonds or notes shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate permitted by the constitution and laws of this state. The board shall determine the maturity and the interest rate of the bonds and notes.

(c) A district's bonds, notes, and interest coupons, if any, are investment securities under Chapter 8, Business & Commerce Code, and may be issued registrable as to principal or as to both principal and interest. The board may make the bonds redeemable before maturity, at the option of the district, or may include in the bonds a mandatory redemption provision.

(d) A district's bonds or notes may be issued in the form, denominations, and manner and under the terms, conditions, and details, and must be signed and executed, as provided by the board in the resolution or order authorizing the issuance of the bonds or notes.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.503. Manner of Repayment of Bonds or Notes

The board may provide for the payment of principal of and interest and redemption price, if any, on the bonds or notes by pledging all or any part of the designated revenues to result from the ownership or operation of the district's works, improvements, facilities, plants, equipment, and appliances or under specific contracts for the period of time the board determines.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.504. Additional Security for Bonds or Notes

(a) The bonds or notes, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien on all or part of the physical properties of the district, and franchises, easements, water rights, and appropriation permits, leases, and contracts and all rights appurtenant to those properties, vesting in the trustee power to sell the property for payment of the indebtedness, power to operate the property, and all other authority necessary for the further security of the bonds or notes.

(b) The trust indenture, regardless of the existence of the deed of trust or mortgage lien on any property, may:

(1) include provisions prescribed by the board for the security of the bonds or notes and the preservation of the trust estate;

(2) make provision for amendment or modification;

(3) condition the right to spend district money or sell district property on approval of a registered professional engineer selected as provided in the trust indenture; and

(4) make provision for investment of funds of the district.

(c) Any purchaser under a sale under the deed of trust or mortgage lien, if one is given, is absolute owner of the property, facilities, and rights purchased and is entitled to maintain and operate them.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.505. Method for Issuance of Bonds and Notes

Bonds or notes may be issued by resolution or order of the board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.506. Provisions of Bonds or Notes

(a) In an order or resolution authorizing the issuance of bonds or notes, including refunding bonds, the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, the reserve fund, and other funds, and may enter into additional covenants relating to the bonds or notes and the pledged revenues and to the operation and maintenance of those works, improvements, facilities, plants, equipment, and appliances the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of the improvements and the use or pledge of money derived from the operation contracts and leases, as the board considers appropriate.

(b) An order or resolution of the board authorizing the issuance of bonds or notes also may prohibit the further issuance of bonds, notes, or other obligations payable from the pledged revenue or may reserve the right to issue additional bonds to be

secured by a pledge of and payable from the revenue on a parity with or subordinate to the lien and pledge in support of the bonds being issued, subject to the conditions that may be set forth in the order or resolution.

(c) An order or resolution of the board issuing bonds or notes may include other provisions and covenants determined by the board that are not prohibited by the constitution or by this chapter.

(d) The board may adopt and have executed any other proceedings or instruments necessary and convenient in the issuance of bonds or notes.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.507. Use of Bond or Note Proceeds

The district may use bond or note proceeds to pay interest, administrative, and operating expenses expected to accrue during the period of construction. The period of construction under this section may not exceed three years as provided by the bond order or resolution. The district also may use bond or note proceeds to pay expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds or notes.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.508. Sale or Exchange of Bonds

(a) The board shall sell the bonds on the best terms and for the best possible price, but the bonds may not be sold for less than 95 percent of their face value.

(b) The district may exchange bonds for property acquired by purchase or in payment of the contract price of work done or services performed for the use and benefit of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.509. Approval by Attorney General; Registration by Comptroller

(a) Bonds issued by a district must be submitted to the attorney general for examination.

(b) If the attorney general finds that the bonds are authorized in accordance with law, he shall approve them, and the comptroller shall register the bonds.

(c) After the registration of bonds by the comptroller, the bonds are incontestable in any court or other forum, for any reason, and are valid and binding obligations in accordance with their terms for all purposes.

(d) If bonds that are payable from revenues recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or a lease made between the district and one or more parties, a copy of the contract or lease and the proceedings authorizing the contract or lease may or may not be

submitted to the attorney general along with the bond records. If submitted, the approval by the attorney general of the bonds constitutes an approval of the contract or lease, and the contract or lease is incontestable as provided by Subsection (c) of this section.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.510. Refunding Bonds

(a) A district may issue bonds to refund all or any part of its outstanding bonds, notes, or other obligations, including matured but unpaid interest coupons.

(b) Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the constitution and laws of this state.

(c) Refunding bonds may be payable from the same source as the bonds, notes, or other obligations being refunded or from other additional sources.

(d) The refunding bonds shall be approved by the attorney general and shall be registered by the comptroller on the surrender and cancellation of the bonds being refunded as provided by Section 65.509 of this code.

(e) An order or resolution authorizing the issuance of refunding bonds may provide that the refunding bonds will be sold and the proceeds deposited in the place or places at which the bonds being refunded are payable, and the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the principal of and interest on the bonds being refunded to their maturity dates, or to their option dates if the bonds have been duly called for payment prior to maturity according to their terms, is deposited in the place or places at which the bonds being refunded are payable. The comptroller shall register the refunding bonds without the surrender and cancellation of bonds being refunded.

(f) A refunding may be accomplished in one or in several installment deliveries. Refunding bonds and their interest coupons are investment securities under Chapter 8, Business & Commerce Code.

(g) In lieu of the method set forth in this section, a district may refund bonds, notes, or other obligations as provided by the general laws of this state.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.511. Obligations; Legal Investment; Security for Funds

(a) Bonds, notes, and other obligations issued by a district are legal and authorized investments for all banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, and trustees, guardians, and for interest and sinking funds and other public funds of the state

and its agencies, including the permanent school fund, and counties, cities, school districts, and other political subdivisions of the state.

(b) A district's bonds, notes, and other obligations are eligible to secure deposits of public funds of the state and its agencies and counties, cities, school districts, and other political subdivisions of the state. The bonds, notes, and other obligations are lawful and sufficient security to the extent of their market value if accompanied by all unmatured interest coupons attached to them.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.512. Authority of Commission Over Issuance of District Bonds

(a) The executive director shall investigate and report on the organization and feasibility of all districts that issue bonds, other than refunding bonds, under this chapter.

(b) A district that desires to issue bonds under this chapter, other than refunding bonds, shall submit to the commission a written application for investigation, together with copies of the engineer's report and data, profiles, maps, plans, and specifications prepared in connection with the engineer's report.

(c) The executive director shall examine the application and accompanying documents and shall visit and carefully inspect the project. The executive director may request and must be supplied with additional data and information requisite to a reasonable and careful investigation of the project and proposed improvements.

(d) The executive director shall file in his office written suggestions for changes and improvements and shall furnish to the board a copy of the report prepared by him.

(e) If the commission approves or refuses to approve the project or the issuance of bonds for the improvements, it shall make a full written report that it shall file in its office. The commission shall furnish a copy of that report to the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.513. Mandamus by Bondholders

In addition to other rights and remedies provided by the law of this state, if a district defaults in the payment of principal of, interest on, or redemption price on its bonds when due, or if the district fails to make payments into any fund created in the order or resolution authorizing the issuance of the bonds, or defaults in the observation or performance of any other covenants, conditions, or obligations stated in the resolution or order authorizing the issuance of its bonds, the owners of any of the bonds are entitled to a writ of mandamus issued by a court of competent jurisdiction compelling the district and its officials to observe and perform the covenants,

the obligations, or conditions prescribed in the order or resolution authorizing the issuance of the district's bonds.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.514. Fees and Charges

(a) A district may establish, maintain, revise, charge, and collect the rates, fees, rentals, tolls, or other charges considered necessary for the use, services, and facilities of the water and sewer system, the collection of solid waste, or fire-fighting services that provide service to areas outside the district. The rates, fees, rentals, tolls, and other charges may be higher than those charged for comparable service to residents inside the district.

(b) The rates, fees, rentals, tolls, or other charges must be at least sufficient to meet the expense of operating and maintaining the water and sewer system, solid waste collection system, or fire-fighting services serving areas outside the district and to pay the principal of and interest and redemption price on bonds issued to purchase, construct, acquire, own, operate, repair, improve, or extend the system.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.515. Cancellation of Unsold Bonds

(a) The board, by order or resolution, may provide for the cancellation of all or any part of any bonds that have been submitted to and approved by the attorney general and registered by the comptroller, but not yet sold, and may provide for the issuance of new bonds in lieu of the old bonds in the manner provided by this chapter for the issuance of the original bonds including their approval by the attorney general and their registration by the comptroller.

(b) The order or resolution of the board shall describe the bonds to be canceled, and also shall describe the new bonds to be issued in lieu of the old bonds.

(c) A certified copy of the order or resolution of the board providing for the cancellation of the old bonds, together with the old bonds, shall be delivered to the comptroller, who shall cancel and destroy the old bonds and make a record of the cancellation.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

[Sections 65.516 to 65.700 reserved for expansion]

SUBCHAPTER H. ADDING AND EXCLUDING TERRITORY; CONSOLIDATING AND DISSOLVING DISTRICTS

§ 65.701. Excluding Land From District

(a) The board may on its own motion call a hearing on the question of the exclusion of land from

the district under Sections 65.702-65.707 of this code, if it considers the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of any landowner or property owner in the district filed with the secretary of the board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.702. Hearing to Announce Proposed Exclusions and to Receive Petitions

If the board determines that an exclusion hearing should be held or if a written petition requesting an exclusion hearing is filed with the secretary of the board as provided by Section 65.701 of this code, the board shall give notice of a time and place for a hearing to announce its own conclusions relating to land or other property to be excluded and to receive petitions for exclusion of land or other property.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.703. Notice of Hearing

(a) The board shall publish notice of the hearing once a week for two consecutive weeks in one or more newspapers with general circulation in the district. The first publication shall appear at least 14 days before the date of the hearing.

(b) Notice of the hearing also must be posted in two public places within the district at least 14 days before the date set for the hearing.

(c) The notice shall advise all interested property owners of their right to:

- (1) present petitions for exclusions of land or other property;
- (2) offer evidence in support of the petitions;
- (3) contest any proposed exclusion based on either a petition or the board's own conclusions; and
- (4) offer evidence in support of the contest.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.704. Petition

(a) A petition for exclusion of land must accurately describe by metes and bounds or lot and block number the land to be excluded. A petition for exclusion of other property must describe the property to be excluded.

(b) A petition for exclusion must be filed with the district at least seven days before the hearing and shall state clearly the particular grounds on which the exclusion is sought. Only the stated grounds may be considered.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.705. Grounds for Exclusion

Exclusions from the district may be made on the grounds that:

(1) to retain any particular land or other property in the district and to extend to it, either presently or in the future, the benefits, services, or protection of the district's facilities would create an undue and uneconomical burden on the remainder of the district; or

(2) the land desired to be excluded cannot:

(A) be improved as to conditions of living and health;

(B) be provided with water or sewer service;

(C) be protected from flood, or drained, or freed from interruption of traffic caused by an excess of water on the roads, highways, or other means of transportation serving the land; or

(D) otherwise be benefited by the district's proposed improvements.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.706. Hearing Procedure

(a) The board may adjourn the hearing from day to day and until all persons desiring to be heard are heard.

(b) The board shall specifically describe all property that it proposes to exclude on its own motion and shall hear first any protests and evidence against exclusions proposed on the board's own motion.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.707. Order Excluding Land

(a) After considering all engineering data and other evidence presented to it, the board shall determine whether the grounds exist under Subdivision (1) or (2), Section 65.705, of this code to exclude the land and, if so, shall issue an order excluding the land or other property. In its order, the board also shall redefine the boundaries of the district to include land not excluded.

(b) A copy of the order excluding land and redefining the boundaries of the district shall be filed in the deed records of each county in which the district is located.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.708. Suit to Review Exclusion

A person who owns an interest in land affected by the order may file a petition to review, set aside, modify, or suspend the order. The petition must be filed not later than the 20th day after the order takes effect.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.709. Venue of Suit

Venue in any action shall be in a district court in the county in which the district is located. If the district includes land in more than one county, the venue is in a district court in the county in which the major portion of the acreage of the land sought to be excluded from the district is located.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.710. Appeal

A person may appeal a judgment or order of a district court in a suit brought under Sections 65.708-65.709 of this code to the appropriate court of civil appeals and supreme court as provided in other civil cases. The appeal is subject to the statutes and rules of practice and procedure in civil cases.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.711. Adding Land by Petition of Landowner

A landowner may file with the board a petition requesting that there be included in the district the land described in the petition by metes and bounds or by lot and block number if there is a recorded plat of the area to be included in the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.712. Petition Signed and Executed

A petition of the landowner to add land to the district must be signed and executed in the manner provided by law for the conveyance of real estate.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.713. Hearing and Determination of Petition

The board shall hear and consider the petition and may add to the district the land described in the petition if the land is considered to be to the advantage of the district and if the water, sewer, and drainage system and other improvements or services of the district are sufficient or will be sufficient to supply the added land without injuring land already in the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.714. Recording Petition

A petition that is granted adding land to the district must be filed for record and must be recorded in the office of the county clerk of each county in which the land is located.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.715. Adding Land by Petition of Less than all Landowners

In addition to the method of adding land to a district that is described in Sections 65.711-65.714 of

this code, defined areas of land, whether or not they are contiguous to the district, may be annexed to the district in the manner provided by this subchapter.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.716. Filing Petition

A petition requesting the annexation of a defined area signed by a majority in value of the landowners in the defined area, as shown by the tax rolls of each county in which the area is located, or signed by 50 landowners if the number of landowners is more than 50, shall be filed with the secretary of the board.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.717. Hearing on Petition

The board shall issue an order establishing a time and place at which the petition for annexation will be heard. The hearing must be held not less than 30 days from the date the order calling the hearing is issued.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.718. Notice of Hearing

(a) The secretary shall issue a notice stating the time and place of the hearing and describing the area proposed to be annexed.

(b) Notice of the hearing must be given by posting copies of the notice in three public places in the district and in one public place in the area proposed to be annexed at least 14 days before the date set for the hearing and by publishing a copy of the notice in a newspaper of general circulation in each county in which the area proposed to be annexed is located one time at least 14 days before the date set for the hearing.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.719. Order Adding Defined Area

(a) After the hearing on the petition, if the board finds that the proposed annexation of the area to the district is feasible and practicable and would be of benefit both to the area and to the district, the board, by order entered in its minutes, shall call and hold an election on the question of annexation. The election shall be held in the area described in the petition.

(b) The district calling the election does not have to include all of the land described in the petition, if the board at the hearing finds a modification or change necessary or desirable. The territory to be added shall be described in the petition.

(c) At the election, a proposition shall be submitted to the voters on the question of annexation.

(d) The board shall canvass the results of the election and, by order, shall declare the results.

(e) If a majority of the qualified voters voting in the election approves the proposition, the board, by order, shall annex the area to the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.720. Filing Order Adding Land

(a) A copy of an order annexing land to the district, attested by the secretary of the board, must be filed and recorded in the deed records of each county in which the district is located.

(b) After the order is recorded, the area is a component part of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.721. Duty to Serve New Land Included in District

The district has the same duty to furnish service to the annexed land that it previously had to furnish service to other land in the district, and the board shall endeavor to serve all land in the district without discrimination.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.722. Duty to Advise Executive Director

The board shall furnish the executive director a detailed description of any land excluded from or annexed to the district within 30 days after the exclusion or annexation or as soon after that time as practicable.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.723. Consolidation of Districts

Two or more districts governed by this chapter may consolidate into one district as provided by this subchapter.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.724. Elections to Approve Consolidation

(a) After the board of each district has agreed on the terms and conditions of consolidation, which may include the assumption by each district of the other district's bonds, notes, or other obligations and adoption of a name for the consolidated district, the board of each district shall order an election in each of their respective districts to determine whether the districts should be consolidated.

(b) The board of each district shall order the election to be held on the same day in each district and shall give notice of the election for the time and in the manner provided by law for bond elections under this chapter.

(c) The districts may be consolidated only if the qualified voters in each district voting at the election vote in favor of the consolidation.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.725. Governing Consolidated Districts

(a) After two or more districts are consolidated, they become one district and are governed as one district.

(b) During a period of 90 days after the date of the election to approve consolidation, the officers of each district shall continue to act jointly as officers of the original districts to settle the affairs of their respective districts.

(c) The consolidation agreement may provide that the officers of the original districts shall continue to act jointly as officers of the consolidated district or name persons to serve as officers of the consolidated district until their successors assume office under Subsection (e) of this section.

(d) On the next available uniform election date, an election shall be called and held, and directors will be elected for the consolidated district in the same manner and for the same term as directors elected under Section 65.103 of this code.

(e) New officers of the consolidated district must qualify as officers of the district within the period of 90 days after the election and shall assume their offices at the expiration of the 90-day period.

(f) The current board shall approve the bond of each new officer.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.726. Debts of Original Districts

After two or more districts are consolidated, the debts of the original districts shall be protected and may not be impaired.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.727. Dissolution of District Prior to Issuance of Bonds

(a) If the board considers it advisable before the issuance of any bonds, notes, or other indebtedness, the board may dissolve a district and liquidate the affairs of the district as provided by this subchapter.

(b) If a majority of the board finds at any time before the issuance of bonds, notes, or other obligations or the final lending of its credit in another form that the proposed undertaking for any reason is impracticable or apparently cannot be successfully and beneficially accomplished, the board may issue notice of a hearing on a proposal to dissolve the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.728. Notice of Hearing

The board shall post notice of the hearing on the bulletin board at the courthouse door of each county in which the district is located and at three or more other public places within the boundaries of the district and shall publish notice of the hearing two times in a newspaper with general circulation in the district. The notice must be posted and published at least one time no later than the 14th day before the date set for the hearing on the proposed dissolution of the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.729. Hearing

The board shall hear all interested persons and shall consider their evidence at the time and place stated in the notice.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.730. Board's Order to Dissolve District

If the board unanimously determines from the evidence that the best interests of the persons and property in the district will be served by dissolving

the district, the board shall enter the appropriate findings and order in its records dissolving the district. Otherwise the board shall enter its order providing that the district has not been dissolved.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.731. Judicial Review of Board's Order

The board's decree to dissolve the district may be appealed in the manner provided by Sections 65-708-65.710 of this code for the review of an order excluding land from the district.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

§ 65.732. Inapplicability of Municipal Annexation Act Provision¹

Section 11, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), does not apply to the annexation of a portion of a special utility district created or operating under this chapter.

[Acts 1983, 68th Leg., p. 2448, ch. 435, § 4, eff. Aug. 29, 1983.]

¹ Section heading editorially supplied.

CIVIL STATUTES

TITLE 128—WATER

Certain laws of a general and permanent nature appearing in the Civil Statutes, classified to Title 128, Water, have not been repealed and are not carried into the Water Code. These statutes are set out below, pending disposition by the Legislature.

I. IRRIGATION AND WATER RIGHTS

CHAPTER ONE—USE OF STATE WATER

4. POLLUTION

Art.

7621e. Water Well Drillers Act.

7621f. Sale or disposal of salt water for pollution control.

4. POLLUTION

Art. 7621e. Water Well Drillers Act

Short title

Sec. 1. This Act shall be known and may be cited as "The Water Well Drillers Act."

Definitions

Sec. 2. The following words and phrases as used in this Act shall have the following meanings unless a different meaning clearly appears from the context. The singular form shall also mean plural form and the masculine gender shall also include the feminine and neuter genders.

(a) "Person" shall mean any individual, whether or not connected with a firm, partnership, association, corporation, or any other group or combination acting as a unit.

(b) "Board" shall mean the Texas Water Well Drillers Board.

(c) "Executive director" shall mean the executive director of the Texas Department of Water Resources.

(d) "Department" shall mean the Texas Department of Water Resources.

(e) "Water well" shall mean any artificial excavation constructed for the purpose of exploring for or producing ground water. The term, however, shall not include any test or blast holes in quarries or mines, or any well or excavation for the purpose of exploring for, or producing oil, gas, or any other minerals unless the holes are used to produce ground water.

(f) "Water well driller" shall mean any person (including owner, operator, and drilling supervisor)

who engages for compensation in the drilling, boring, coring, or construction of any water well in this State. The term, however, shall not include any person who drills, bores, cores, or constructs a water well on his own property for his own use or a person who assists in the construction of a water well under the direct supervision of a licensed water well driller and is not primarily responsible for the drilling operations.

(g) "Licensed water well driller" shall mean any person who holds a license issued by the State of Texas pursuant to the provisions of this Act.

(h) "Pollution" shall mean the changing of the physical, thermal, chemical, or biological quality of, or the contamination of, any water in a way that makes the water harmful to humans, animal life, vegetation, or property or to the public health, safety, or welfare or that impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(i) "Well log" shall mean a log accurately kept, at the time of drilling, showing the depth, thickness, character of the different strata penetrated, location of water-bearing strata, depth, size and character of casing installed, together with any other data or information required by the Board, on forms prescribed by the Board.

(j) "Water Well Drillers Board" shall mean an examining board consisting of nine (9) members, all of whom shall be voting members appointed by the Governor with the advice and consent of the Senate as hereinafter provided.

(k) "License fee" shall mean the initial fee to be paid by a driller under this Act.

(l) "Renewal fee" shall mean that fee paid by a previously licensed driller.

(m) "Examination fee" shall mean that non-refundable fee required of each applicant for each examination.

License required

Sec. 3. (a) It shall be unlawful for any person to act as or to offer to perform services as a water well driller without first obtaining a license in the manner prescribed herein and pursuant to the rules of the Water Well Drillers Board.

(b) Applications shall contain the name of the applicant, his business address, his permanent mailing address, and such other relevant information as the Board may require.

(c) At the time of making application, each applicant shall pay to the department the required examination fee which shall be non-refundable; and the successful candidates upon notification of eligibility shall pay to the department the license fee.

(d) All licenses issued under this Act shall expire on August 31 of each year; and on or before that day, each person holding a license shall pay to the department an annual renewal fee. The department shall notify each licensee in writing of the licensee's impending license expiration at least 30 days before the expiration and shall attempt to obtain from each licensee a signed statement confirming receipt of the notice. A person may renew his unexpired license by paying to the department before the expiration date of the license the required renewal fee. If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department the required renewal fee and a fee that is one-half of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the department all unpaid renewal fees and a fee that is equal to the examination fee for the license. If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

(e) The department shall maintain a current register of licensees.

(f) A license shall not be transferable or assignable.

(g) A duplicate license to replace a lost or destroyed license shall be issued by the department upon proper application and payment of a fee.

(h) The Board shall establish for the administration of this Act reasonable and necessary fees not exceeding the following amounts:

1. Examination	\$ 25
2. License	100
3. Renewal	100
4. Duplicate License	10

(i) The Board shall not maintain unnecessary fund balances, and fee amounts shall be set in accordance with this requirement.

(j) Each applicant shall have been a resident of the State of Texas for not less than 90 days prior to making application for a license as a water well driller.

Licenses

Sec. 3A. The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license renewal fees payable on August 31 shall be prorated on a monthly basis so that each license holder shall pay only that portion of the license renewal fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Endorsement

Sec. 4. The Board may develop rules specifying grounds by which the department may waive any license requirement for an applicant with a valid license from another state having license requirements substantially equivalent to those of this state.

Reporting of well logs

Sec. 5. Every licensed water well driller drilling, deepening or otherwise altering a water well within this State shall make and keep, or cause to be made and kept, a legible and accurate well log, and within 30 days from the completion or cessation of drilling, deepening or otherwise altering such a water well, shall deliver or transmit by certified mail a copy of such well log to the department, and the owner thereof or the person having had such well drilled. Each copy of a well log, other than a department copy, shall include the name, mailing address, and telephone number of the Board and the department. The well log required herein shall at the request in writing to the department, by certified mail, by the owner or the person having such well drilled be held as confidential matter and not made of public record.

Water Well Drillers Board

Sec. 6. (a) The Water Well Drillers Board shall be composed of nine (9) members appointed by the governor with the advice and consent of the senate. Appointments to the Board shall be made without regard to the race, creed, sex, religion, or national origin of the appointees.

(b) Six (6) members shall be water well drillers who have the following qualifications:

(1) Each such driller shall be a citizen of the State of Texas.

(2) Each such driller shall have experience in the water well drilling business prior to his appointment.

(3) Each such driller shall be conversant in water well drilling, completion and plugging methods and techniques.

(4) Each such driller shall be a licensed water well driller.

(5) One driller shall be selected from the State at large and one of each such drillers shall be selected from the following geographic areas of the State of Texas:

- A. Gulf Coast Area.
- B. Trans-Pecos Area.
- C. Central Texas Area.
- D. North-East Texas Area.
- E. Panhandle-South Plains Area.

(6) It is further provided that no more than one (1) driller member may be employed by or own an interest in the same company, firm or business association which is engaged in any phase of the water well drilling business.

(c) Three members must be representatives of the general public. A person is not eligible for appointment as a public member if the person or the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of water well drilling; or

(2) is employed by, participates in the management of, or has, other than as a consumer, a financial interest in, a business entity or other organization related to the field of water well drilling.

(d) A Board member or an employee of the Board or the department connected with the administration of this Act may not be an officer, employee, or paid consultant of a trade association in the water well drilling industry and may not be related within the second degree by affinity or consanguinity to a person who is an officer, employee, or paid consultant of a trade association in the regulated industry.

(e) A person who, because of his activities on behalf of a trade or professional association in the regulated profession, is required to register as a lobbyist under Chapter 422, Acts of the 63rd Legislature, Regular Session, 1973, as amended (Article 6252-9c, Vernon's Texas Civil Statutes), may not serve as a member of the Board or act as the general counsel to the Board.

(f) It is a ground for removal from the Board if a member:

(1) does not have at the time of appointment the qualifications required by Subsection (b) or (c) of this section for appointment to the Board;

(2) does not maintain during his service on the Board the qualifications required by Subsection (b) or (c) of this section for appointment to the Board;

(3) violates a prohibition prescribed by Subsection (d) or (e) of this section; or

(4) fails to attend at least one-half of the regularly scheduled meetings held each year, excluding meetings held when the person was not a Board member.

(g) All terms shall expire on September 15 and all regular appointments shall be for terms of six (6) years.

(h) Each member of the Board is entitled to a per diem as set by legislative appropriation for each day that the member engages in the business of the Board. A member may not receive any compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses. A member is entitled to compensation for transportation expenses as prescribed by the General Appropriations Act.

(i) The Board shall hold meetings at the call of the chairman. Meetings shall be conducted in compliance with Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes).

(j) A majority of the Board is a quorum for conducting business.

(k) The Board shall elect a chairman by a majority vote at the first meeting each year. The Board may recognize, prepare, or carry out continuing education programs for its licensees. Participation in the programs is voluntary.

(l) The Board shall prepare examinations and pass upon qualifications of applicants for licenses and cause to be issued licenses to those who qualify.

(m) The Board shall design written examinations in such a manner as to disqualify any person lacking in the necessary knowledge of drilling, completion and plugging methods and techniques and of ground water formations to the extent that the performance by such person of services as a water well driller would create a serious risk of polluting fresh water. Provided, however, that each applicant shall have the right to have such examination given him orally, in lieu of in writing.

(n) Administration of examination:

(1) The department shall offer examinations prepared by the Board at least once a year and more frequently if more than 10 persons petition the Board for an additional examination, or the Board should so provide.

(2) The examination shall be so administered so that the one who grades an examination does not know whose paper he is grading.

(3) The department shall maintain files of examination papers. Not later than the 30th day after the date a licensing examination is administered under this Act, the department shall notify each examinee of the results of the examination. A person, at any time within six months of the date that he is notified of the results of an examination, is entitled to inspect his examination paper during normal business hours at the department's offices for the purpose of challenging the propriety of the questions; the method of grading, and the accuracy of grading. If requested in writing by a person who fails the licensing examination administered

under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

(o) The person who fails an examination may apply for a subsequent examination, but must pay the examination fee each time he applies.

Application of Sunset Act

Sec. 6a. The Texas Water Well Drillers Board is subject to the Texas Sunset Act, as amended (Article 5429k, Vernon's Texas Civil Statutes). Unless continued in existence as provided by that Act, the board is abolished, and this Act expires effective September 1, 1993.

Rules and regulations

Sec. 7. (a) The Board shall adopt, prescribe, promulgate, and enforce all rules and regulations reasonably necessary to effectuate the provisions of this Act, including all rules governing applications for a license, qualifications of applicants, marking of water well drilling rigs and equipment, standards of conduct for licensed water well drillers and all rules governing procedure and practice before the Board. Be it further provided, however, that before the Board may adopt any substantive rule under this Act, it must mail a copy of the proposed rule or amendment together with an informative summary of the rule or amendment to each person licensed under this Act, at least twenty (20) days prior to the proposed adoption date of such a proposed rule.

(b) Full authority is given the Board to enforce by injunction or other appropriate remedy, in courts of competent jurisdiction, any and all reasonable rules, regulations, decisions, determinations and orders promulgated by it which do not conflict with any law. It shall be the duty of the Attorney General to represent the Board when requested to do so.

(c) The Board shall propose and adopt all rules in accordance with the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes).

Revocation of licenses

Sec. 8. (a) The Board shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a licensee for a violation of this Act or a rule adopted by the Board under this Act. Grounds for revocation, suspension, probation, or reprimand shall include intentional misstatement or misrepresentation of fact on an application or well log; failure to keep and transmit water well logs as provided herein; failure to advise a person for whom a well is being drilled that injurious water has been encountered, is a pollution hazard, and must be forthwith plugged in an acceptable manner; or being found to be an incompetent water well driller.

(b) The Board shall, before suspending or revoking any license, placing a person on probation, or

reprimanding a licensee, notify the holder in writing of any charges made in order to afford such holder an opportunity to be heard, which notification shall be given at least ten (10) days prior to the date set for hearing, and which shall prescribe the time and place of the hearing. Such written notice may be served by mailing same by registered mail to the last known business address of such person. At such hearing such person and all persons complaining against him, as well as any other witness whose testimony is relied upon to substantiate the charges made, shall be entitled to be present. He shall also be entitled to present evidence, oral and written as may be relevant to the inquiry. In such hearing all witnesses shall be duly sworn and a record of the proceedings shall be taken. Any party to the proceedings desiring it shall be furnished with a copy of the record upon the payment to the Board of a fee not to exceed fifty cents (50¢) per page.

(c) Every decision and order in a disciplinary hearing rendered by the Board shall be in writing and shall set forth briefly the findings of fact and Board's conclusions. Parties to the proceedings shall be notified of the decision or order in person or by mail and forwarded a copy of same; such orders or decisions shall be transmitted no later than thirty (30) days of conclusion of the hearing.

Appeal of Board action

Sec. 9. (a) A person affected by any ruling, order, decision, or other act of the Board may appeal by filing a petition in a District Court in the county in which the alleged violation occurred.

(b) Petition must be filed within thirty (30) days after the date of the Board's action, or, in case of a ruling, order, or decision, within thirty (30) days after its effective date.

(c) Service of citation on the Board must be accomplished within thirty (30) days after the date the petition was filed. Citation may be served on the Executive Director of the department or on any member of the Water Well Drillers Board.

(d) The plaintiff shall pursue his action with reasonable diligence.

(e) The substantial evidence rule applies in the judicial review of any Board action, ruling, order, or decision. All administrative or executive action taken prior to the filing of the suit shall continue in force and effect until the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy.

Duties of the department

Sec. 10. (a) The department shall furnish the Board with necessary clerical services, including space for holding examinations; printing examinations; printing and mailing licenses; sending notices; collecting fees and issuing receipts; employing secretarial assistance; replying to routine requests for information; printing forms and information; typing all letters to be reproduced; maintain-

ing records and completed examinations; and keeping records of receipts and disbursements; providing necessary legal services; and providing necessary investigative services, and the department shall promulgate procedures and standards for plugging water wells.

(b) The Board shall have access to information kept by the department under this Act.

(c) The department shall adopt the necessary procedural rules in order to carry out the imposed duties under this Section of this Act.

(d) The department shall prepare information of consumer interest describing the regulatory functions of the Board and the Board's procedures by which consumer complaints are filed with and resolved by the Board. The department shall make the information available to the general public and appropriate state agencies.

(e) If a written complaint is filed with the Board relating to a licensee, the department, at least as frequently as quarterly, shall notify the parties to the complaint of the status of the complaint until final disposition unless the notice would jeopardize an undercover investigation. The department shall maintain an information file about each complaint filed with the Board relating to a licensee.

Disposition of revenues

Sec. 11. (a) The state auditor shall audit the financial transactions of the Board and department in connection with the administration of this Act during each fiscal biennium.

(b) All money collected by the department under the provisions of this Act shall be deposited in the State Treasury to the credit of a special fund to be known as the water well drillers fund and may be used only to administer this Act.

(c) On or before January 1 of each year, the department shall submit in writing to the governor and the presiding officer of each house of the legislature a complete and detailed report accounting for funds received and disbursed under this Act by the department and the Board during the preceding year.

Civil penalty

Sec. 12. Any person who fails to comply with the provisions of this Act, or with any rule or regulation promulgated by the board or the department under this Act, shall be subject to a civil penalty in any sum not exceeding One Thousand Dollars (\$1,000) for each day of noncompliance and for each act of noncompliance, as the court may deem proper. A firm, partnership, association, corporation, or other group or combination with which the person was connected in relation to the act of noncompliance is also subject to the civil penalty. The action may be brought by the board in any court of competent jurisdiction in the county where the offending activity is occurring or where the

defendant resides. Full authority is also given the executive director to enforce by injunction, mandatory injunction or other appropriate remedy, in courts having jurisdiction in the county where the offending activity is occurring, the provisions of this Act. At the request of the board or the executive director, the Attorney General shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in this section. Any party to a suit may appeal from a final judgment as in other civil cases. The obtaining of a license under the provisions of this Act by a person shall not act to relieve that person from liability under any statutory law or the Common Law.

Marking rigs with identification number

Sec. 13. It is the duty of all licensed water well drillers to see that all rigs used by them or their employees in the water well drilling business are marked with legible identification numbers at all times; the "identification number" to be used on the rigs shall be the "license number" which appears on the driller's license; the Board shall set out in detail in its rules the specific method and manner for marking the rigs. Any licensed driller has thirty (30) days to comply with the regulations provided in this section.

Plugging of water wells

Sec. 14. (a) It shall be the duty of each driller licensed under this Act to inform forthwith the landowner or person having a well drilled when water injurious to vegetation, to land or to fresh water has been encountered and such well must be plugged or properly completed in order to avoid injury or pollution.

(b) It shall be the duty of the driller to see that such a well is forthwith plugged or completed under standards and procedures promulgated by the department.

(c) It shall be the duty of whoever shall plug such a well to complete a plugging report within thirty (30) days and submit it to the executive director; appropriate forms shall be furnished by the executive director upon request.

Construction

Sec. 15. Nothing in this Act shall be construed as affecting the ownership, or the rights of owners of the land, in underground water.

Severability clause

Sec. 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without defeating the purpose or objective of the provision, and to this end, the provisions of this Act are declared to be severable.

Transfer of functions

Sec. 17. In the event that the functions of the Texas Department of Water Resources necessary to the proper implementation of its duties under this Act are transferred to any other agency, the authority given herein to the Texas Department of Water Resources shall be transferred to such other agency.

[Acts 1965, 59th Leg., p. 509, ch. 264, eff. Aug. 30, 1965. Amended by Acts 1969, 61st Leg., p. 1180, ch. 376, §§ 1 to 3, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1409, ch. 387, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1410, ch. 388, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 628, ch. 266, § 22, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 700, ch. 296, § 1, eff. June 11, 1973; Acts 1977, p. 1837, ch. 735, § 2.034, eff. Aug. 29, 1977; Acts 1981, p. 3016, ch. 791, § 1, eff. Sept. 1, 1981.]

Section 2 of Acts 1973, 63rd Leg., p. 700, ch. 296 provided: "Chapter 388, Acts of the 62nd Legislature, Regular Session, 1971 [which amended § 9 of this article], is repealed."

Sections 2 and 3 of the 1981 amendatory act provide:

"Sec. 2. Each valid certificate of registration issued by the board on or before September 1, 1981, continues in effect until its regular expiration date.

"Sec. 3. (a) Except for the ex officio members, incumbent members of the board on the effective date of this Act serve the remainder of their terms.

"(b) The governor shall appoint one public member for a term expiring on September 15, 1983, one public member for a term expiring on September 15, 1985, and one public member for a term expiring on September 15, 1987."

Art. 7621f. Sale or disposal of salt water for pollution control

Contracts for pollution control; terms

Sec. 1. Any water power control district heretofore organized or hereafter organized is authorized to enter into contracts with any person, firm or corporation or one or more of either, for the sale or disposal of salt water. Provided, no such contract shall be entered into unless it is determined by the Board of Directors of such District that such contract is needed for the purpose of pollution control and unless any such contract in the opinion of such Board of Directors is reasonably calculated to achieve such purpose. If it is determined by the Board of Directors of any such District that in order to effect the sale or disposal of salt water that it is necessary to guarantee a constant flow of water under any such contract, then fresh water may be included, but only to the extent it is necessary in order to achieve pollution control through disposing of salt water. Such contracts may be for a period of time and on such terms as may be deemed necessary by any such Board of Directors.

Revenue bonds; purposes; sale; form, conditions and details

Sec. 2. Any water power control district is authorized to issue revenue bonds, without an election, for the purpose of the construction and acquisition of pipe lines, pumps and all facilities necessary for the sale or disposal of salt water for pollution control. Any such bonds shall be authorized by

such Board of Directors, from time to time, and in such amounts as it shall consider necessary. All such bonds shall be fully negotiable and may be made redeemable before maturity, at the option of the Board of Directors of any such District, at such price or prices and under such terms and conditions as may be fixed by such Board of Directors prior to the issuance of such bonds. Such Board of Directors may sell such bonds in such manner, either at public or at private sale, and for such price as it may determine to be for the best interest of the District, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six (6%) per cent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding however, from such computation the amount of any premium to be paid on redemption of any bonds prior to maturity. Subject to the restrictions contained in this Act each such Board of Directors is given complete discretion in fixing the form, conditions and details of such bonds, and such bonds may be refunded or otherwise refinanced whenever said Board of Directors deems such action to be appropriate or necessary.

Any such bonds may be secured by a pledge of the revenues to be received by the District from one or more contracts entered into between the District and any person, firm or corporation, in the manner and to the extent provided in the order of the Board of Directors authorizing such bonds. Any such bonds shall be special obligations of the District issuing same, payable solely from the revenues pledged to their payment. Any such bonds shall contain the following statement:

"The holder hereof shall never have the right to demand payment hereof from funds raised or to be raised by taxation."

Contracts with non-profit corporations; acceptance of works or facilities

Sec. 3. If any water power control district enters into a contract with a non-profit corporation whereby such non-profit corporation obligates itself to provide works or facilities to accomplish pollution control and issues its bonds to secure funds to accomplish same, the District is hereby authorized to accept all such works or facilities from such non-profit corporation at the time and in the manner provided in the contract and in the indenture securing such non-profit corporation's obligations.

Bond issues involving federal funds; approval

Sec. 3-a. Approval must be acquired from the Texas Water Commission pursuant to Article 7880-139, Vernon's Civil Statutes, as amended, when issuing bonds involving Federal funds.

Examination, approval and registration of bonds

Sec. 4. Prior to delivery thereof, all bonds authorized to be issued hereunder and the record relating to their issuance shall be submitted to the

Attorney General of Texas for examination; and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the District authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comp-

troller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

[Acts 1965, 59th Leg., p. 1509, ch. 655, eff. Aug. 30, 1965.]

¹ Repealed; see, now, Water Code, §§ 51.421, 51.422.

CHAPTER THREE—WATER CONTROL AND
PRESERVATION DISTRICTS

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Repeal

This Chapter 3 of Title 128 is repealed by Water Code, § 50.258, which provides, in part, that these articles "are continued in effect for the sole purpose of the administration and operation of any water control and preservation districts created" under these articles.

1. ESTABLISHMENT

Art. 7808. May establish

One or more water control and preservation districts may be established in the several counties, or a part of any county, or in two or more adjacent counties, or in parts of two or more adjacent counties, or in one county and part of an adjacent county or counties, in the manner provided in this chapter. Said districts may or may not include within their boundaries villages, towns and municipal corporations, or any part thereof, but no land shall be at the same time included within more than one such district. All such districts are defined districts within the meaning of Section 52, Article 3 of the State Constitution.

[Acts 1925, S.B. 84.]

Art. 7809. Purposes

Said districts, when established, shall be for the purpose of the control and preservation of the purity of the waters of any rivers, creeks, bayous, lakes, canals, streams or other waters of any kind and character situated or flowing, in whole or in part, through the said district, or any part thereof, by the prevention of the inflow of salt water or other deleterious substances, or by the changing of said waters from salt to fresh water, and the impounding of fresh water for such purposes.

[Acts 1925, S.B. 84.]

Art. 7810. Powers

Such districts, when established, shall have full power to erect, construct, maintain, repair and reconstruct dams, bulkheads, jetties, locks, gates, or any other character of improvement or construction necessary to the accomplishment of any such purpose, and to make such construction without the boundaries of the district, where same may be deemed necessary to the preservation, or the improvement of the purity and irrigable quality of such waters; and may issue bonds in payment therefor.

[Acts 1925, S.B. 84.]

Art. 7811. Petition

Upon the presentation to the commissioners court of a petition signed by twenty-five of the resident property taxpayers of any proposed district praying for the establishment thereof within the county, and setting forth the boundaries, and accompanied by a map thereof, the general nature of the improvements proposed, and an estimate of the probable cost thereof, and praying for the issuance of bonds and levy of a tax in payment thereof, and designating a name for such district which shall include the name of the county; and accompanied by the affidavit of the petitioners stating that they are resident property taxpayers of such county; the court shall set the same down for a hearing at a regular or called session, not less than thirty nor more than sixty days thereafter.

[Acts 1925, S.B. 84.]

Art. 7812. Contingent deposit

The petition shall be accompanied by five hundred dollars in cash which shall be deposited with the clerk of the commissioners court of the county in which the largest portion of the proposed district is situated. If the result of the original election is in favor of the establishment of the district, the clerk shall return said deposit to the petitioners, their agent or attorney; otherwise the clerk shall pay the same out upon the vouchers signed by the county judge of such county, for all expenses and costs pertaining to the proposed district up to and including said election, and shall return the balance to the petitioners, their agent or attorney.

[Acts 1925, S.B. 84.]

Art. 7813. Notice of hearing

The court shall, when setting a date for the hearing, order the clerk of said court to give notice of the date and place of said hearing by posting, or causing to be posted, not less than twenty days prior to the hearing, a copy of said petition and the order of the court thereon, one at the courthouse door and four others within the limits of the proposed district. Said clerk shall receive one dollar for each such notice and five cents per mile for each mile necessarily traveled in posting such notices.

[Acts 1925, S.B. 84.]

Art. 7814. Hearing

Any person who may be affected thereby may appear before said court and contest the creation of said district, or contend for its creation, and may offer testimony in favor of or against the boundaries of said district to show that the proposed improvements would or would not be of any public utility, and would or would not be feasible or practicable, and the probable cost of such improvements, or as to any other matter pertaining to the proposed district.

[Acts 1925, S.B. 84.]

Art. 7815. Hearing: authority of court

Unless otherwise provided, the commissioners court shall have exclusive jurisdiction to hear and determine all contests and objections to the creation and establishment of any district, and shall have exclusive jurisdiction in all subsequent proceedings of any organized district, and may adjourn hearing on any matter connected therewith from day to day; and all judgments, decrees or orders rendered or entered by said court in relation thereto shall be final.

[Acts 1925, S.B. 84.]

Art. 7816. Findings

If at said hearing it appears to the court that the organization of such district and the proposed improvement is feasible and practicable, and that it would be a public benefit or public utility, then it shall so find, and shall also find the amount of money necessary for said improvement and for all expenses incident thereto and the expenses necessarily incurred in connection with the creation and establishment of the district, and shall specify the amount of bonds to issue, the length of time the bonds shall run, and the rate of interest said bonds shall bear. If the court finds that such organization and improvement is not feasible or practicable, or that it would not be a public benefit or utility, then it shall dismiss the petition at the cost of the petitioners. In either case, the court shall enter its findings in the records of the court.

[Acts 1925, S.B. 84.]

Art. 7817. May renew petition

The order dismissing said petition or any appeal therefrom shall not prevent the presentation at any subsequent time of a similar petition with changed boundaries, but the presentation of a similar petition with identical boundaries shall not be permitted until the expiration of six months after such dismissal.

[Acts 1925, S.B. 84.]

Art. 7818. Appeal

Any petitioner or taxpayer in such district may appeal from the findings of said court to the district court of said county. Such appeal shall be perfected within five days after the rendition of the order

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appealed from, in the following manner: notice of appeal shall be given and entered of record on the minutes of said court, at the time of the entry of said order by announcement of same before said court, or by giving written notice within two days after the entry of such order by a simple statement that the undersigned gives notice of appeal from the order entered on the date stated, and by filing such written notice with the county clerk; and by filing an appeal bond with two or more good and sufficient sureties for one hundred dollars, payable to the county judge and approved by the county clerk, and conditioned upon the due prosecution of the appeal and payment of all costs incident thereto. Unless appeal is so perfected, such order shall be final and conclusive.

[Acts 1925, S.B. 84.]

Art. 7819. Appeal: proceedings

Within five days from the filing of the appeal bond, the county clerk shall transfer to the district clerk all records filed with the commissioners court pertaining to the establishment of said district, and it shall not be necessary to file additional pleadings in said court. The court shall set the matter down for hearing de novo, and the matters shall be tried and determined by the court. The judgment of the district court shall be final and conclusive, and shall be certified to the commissioners court for its further action.

[Acts 1925, S.B. 84. Amended by Acts 1981, 67th Leg., p. 2629, ch. 707, § 4(5), Aug. 31, 1981.]

Art. 7820. Election order

If the petition is granted, the commissioners court shall order an election to be held in such district at the earliest legal time, to determine whether or not such district shall be created and whether or not a tax shall be levied sufficient to pay the interest and provide a sinking fund to redeem said bonds at maturity. Said order shall specify the amount of bonds to be issued, the length of time said bonds shall run, and the rate of interest they shall bear, as determined by the court.

[Acts 1925, S.B. 84.]

Art. 7821. Notice of election

Notice of such election stating the time and place of holding the same shall be given by the county clerk by posting or causing to be posted notices thereof in four public places in such district and one at the courthouse door, for thirty days prior to the election. Said notice shall also contain the proposition to be voted on and the purpose for which said bonds are to be issued and the amount of such bonds, and shall contain a copy of the election order.

[Acts 1925, S.B. 84.]

Art. 7822. Ballot

The commissioners court shall provide twice as many ballots as there are qualified resident proper-

ty tax paying voters within such district. Said ballots shall have printed thereon the words and none others: "For the Water Control and Preservation District, and issuance of bonds and levy of tax in payment thereof;" "Against the Water Control and Preservation District, and issuance of bonds and levy of tax in payment thereof."

[Acts 1925, S.B. 84.]

Art. 7823. Election: conduct of

None but resident property taxpayers who are qualified voters of said proposed district shall be entitled to vote at such election. The commissioners court shall create and define, by an order of the court, the voting precincts in the proposed district, and shall name convenient polling places therein, and shall appoint the judges and other necessary election officers.

[Acts 1925, S.B. 84.]

Art. 7824. List of voters

The tax collector of the county wherein such district is situated, prior to the election, shall make a certified list of the property taxpayers of said district and furnish to the presiding judge of each precinct a list of such voters in such precinct. No person whose name does not appear in said list shall vote at any election under this chapter, except as provided in the two succeeding articles.

[Acts 1925, S.B. 84.]

Art. 7825. Voter's oath

Any person who acquired property in said district after the first day of January of the preceding year may vote in said election upon taking the following oath before the presiding judge of the polling place where he offers to vote, and such judge is authorized to administer same: "I do solemnly swear that I am a qualified voter of County and that I am a resident property taxpayer of the proposed district, that I was not subject to pay property tax in said district for the preceding year and have not voted before at this election."

[Acts 1925, S.B. 84.]

Art. 7826. Taxpayer's oath

Any person whose name was erroneously omitted from said list of voters may vote at said election upon the taking the oath as prescribed in the preceding article except that in lieu of the clause "that I was not subject to pay property tax in said district for the preceding year," there shall be substituted "that I was subject to and did pay property tax in said district for the preceding year.["]

[Acts 1925, S.B. 84.]

Art. 7827. Results of election

Said court shall canvass the vote, and if two-thirds of such votes are in favor of the proposition submitted, then the court shall declare the result of said election to be in favor of said district, and shall

enter same in their minutes as provided in the succeeding article.

[Acts 1925, S.B. 84.]

Art. 7828. Declaration of result

Said order of the court shall be as follows: "Commissioners court of County, Texas, day of A.D. in the matter of petition of and others, praying for the establishment of a Water Control and Preservation District, and issuance of bonds and levy of taxes in said petition fully described and designated by the name of Water Control and Preservation District Be it known that at an election called for that purpose in said district, held on the day of A.D., a two-thirds majority of the resident property taxpayers voting thereon voted in favor of the creation of said District, and the issuance of bonds and levy of a tax. Now, therefore, it is considered and ordered by the court that said District be and the same is hereby established by the name of Water Control and Preservation District, and that the bonds of said District in an amount not exceeding dollars be issued by the Directors of said District, and that said Board of Directors levy a tax of cents on the hundred dollars of valuation, or so much thereof as may be necessary, upon all property within said district, whether real, personal, mixed or otherwise, sufficient in amount to pay the interest on such bonds and provide a sinking fund sufficient to redeem them at maturity, and that if said tax shall at any time become insufficient for such purpose, same shall be increased by said Directors until same is sufficient. The metes and bounds of said District being as follows, to-wit: (giving the metes and bounds.)"

[Acts 1925, S.B. 84.]

Art. 7829. Board of directors

At the same meeting when said order is made, or at a called meeting within five days thereafter, the court shall appoint a board of directors consisting of three members, all of whom shall be freehold property taxpayers and legal voters of the county embraced in whole or in part within the district, and more than twenty-one years of age. Each shall receive three dollars per day for each day necessarily taken in the discharge of their duties as such; and shall hold office for two years, unless sooner removed by a majority vote of said court. Upon the expiration of their terms of office, the court shall appoint their successors by majority vote. Should any vacancy occur in said board, the same shall be filled in like manner by said court.

[Acts 1925, S.B. 84.]

Art. 7830. Combined district

Where a proposed district lies partly within two or more counties, the petition for the establishment of said district shall be presented to the commission-

ers court of each county. Each such court shall give all necessary notice as provided for a single district in one county, but stating that same is a part of such entire district, and shall order an election, appoint all necessary officers, furnish all supplies, canvass the returns and declare the result of such election, all as provided for a single district. The presiding officer of each court shall then certify and report the result of said election to the county judge of the county in which the largest portion of such district is situated.

[Acts 1925, S.B. 84.]

Art. 7831. Combined district: declaration

Said county judge shall canvass said vote and declare the result thereof, and if two-thirds of such votes favor the creation of said district, he shall declare the result and make the same order as provided herein for a single district. Copies of such order shall be filed with the county clerk of each county and shall be held to be a proclamation of the result of said election.

[Acts 1925, S.B. 84.]

Art. 7832. Combined district: hearing

The commissioners court of each county shall hear and determine the matters relating to the establishment of said district in their county, in the same manner as provided for a single district, and appeals may be taken therefrom to the district court of any county in which any part of said district is situated, in the manner provided herein for a single district.

[Acts 1925, S.B. 84.]

Art. 7833. Combined district: directors

A board of five directors shall be elected at the same election held for the establishment of such district, and the ballot therefor may have printed thereon the names of such candidates, or the voter may write upon his ballot the names of the persons voted for as directors; and the five persons receiving the highest number of votes so cast shall be the directors of said district, and shall hold office until the next regular election. In case of vacancy in said board, or if the number of directors is reduced by any cause to less than three, said vacancies shall be filled in the same manner as provided by law in such cases for directors of water improvement districts under Chapter 2 of this title.

[Acts 1925, S.B. 84.]

Art. 7834. Combined district: election

On the second Tuesday of January after the establishment of such district, and biennially thereafter, an election for such directors shall be held in each such county in accordance with the election laws of this State and the provisions of this chapter for elections for establishing a district. Said directors shall hold office for two years. The directors shall give notice of the election, appoint

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election officers, receive and canvass the election returns and perform all other duties necessary for holding said elections.

[Acts 1925, S.B. 84.]

Art. 7835. Director's bond and oath

Within ten days after their appointment or election, or as soon as practicable thereafter, the directors shall each make a good and sufficient bond for five thousand dollars payable to their district, conditioned upon the faithful performance of their duties, to be approved by the commissioners court of the county in which the director resides, and such bond and a copy of the order approving same shall be filed with the county clerk of the county in which the largest part of the district is situated. Such clerk shall record and index the same in the deed records in the manner provided for recording and indexing deeds. Each director shall take the official oath before the county clerk of the county in which the director resides. All bonds and oaths shall be delivered by said clerks to the district depository and be by it safely kept and preserved for the district.

[Acts 1925, S.B. 84.]

Art. 7836. County officers: compensation

Unless otherwise provided, the duties and powers herein conferred upon the county judges and members of the commissioners court, and other officers are made a part of the regular duties of said officials, which they shall render and perform without additional compensation, and the county clerk shall receive the same compensation for his services hereunder as provided for similar services under Chapter 2 hereof.

[Acts 1925, S.B. 84.]

2. BOARD OF DIRECTORS**Repeal**

This Chapter 3 of Title 128 is repealed by Water Code, § 50.258, which provides, in part, that these articles "are continued in effect for the sole purpose of the administration and operation of any water control and preservation districts created" under these articles.

Art. 7837. Organization of board

As soon as possible after their qualification, the directors shall organize by electing one of their number president and one as district secretary. When the board consists of three members, any two directors shall be a quorum; and when it consists of five members, any three directors shall be a quorum.

[Acts 1925, S.B. 84.]

Art. 7838. Meetings

During the progress of the construction of any improvement under contract, the directors shall maintain a regular office within such district, and may in their discretion when deemed necessary, maintain a regular office in the district during any other time. The directors shall hold an annual meeting on the first day of December at ten o'clock A.M. and may provide for meetings at stated intervals by resolution duly passed, and the president or any two directors may call special meetings at any time that may be deemed proper or necessary.

[Acts 1925, S.B. 84.]

Art. 7839. Powers

The directors shall have control over the management of all district affairs, shall make all contracts pertaining thereto, and shall employ all necessary employes for the proper conduct and operation of such district, including engineers, bookkeepers and such other assistants and such laborers as may be required, at such compensation as they may determine, and may require bonds of any employes in any amount they may determine. They may employ attorneys to represent such district in the preparation of any contract or the conduct of any proceedings in or out of court, and to be the legal adviser of the directors, on such terms and for such fees as may be agreed upon by them.

[Acts 1925, S.B. 84.]

Art. 7840. Powers: limitation

Where the district lies wholly in one county, the directors shall not, after the completion of the improvements, employ any attorneys as legal advisers of the district or an engineer for such district, or any other employes, except with the concurrence and consent of the commissioners court of such county; and the compensation paid by any such attorney, engineer, or employe so employed shall be fixed by the directors subject to the approval of the commissioners court.

[Acts 1925, S.B. 84.]

Art. 7841. Further powers

The directors may employ a general manager to have general charge of the work, paying such compensation as may be agreed upon by the directors. A director may be appointed as general manager at such compensation as may be fixed by the other directors, and when so employed he shall also perform the duties of a director, but shall not receive the compensation to be paid to the directors. The directors may also buy all necessary work animals, machinery and supplies and material of all description as may be required in the construction, operation or repairing of the improvements of the district, and may do and perform all things necessary and proper in carrying out the purposes of said district.

[Acts 1925, S.B. 84.]

Art. 7842. Official bonds

All district officers and employes who may be required to give bond or security may furnish bonds of surety companies, subject to the approval of the directors. All such bonds shall be preserved by the directors as the property of said district. After the organization of a district, all bonds required of any district officer or employe shall be approved by the directors.

[Acts 1925, S.B. 84.]

Art. 7843. District records

The directors, through the secretary, shall keep a true account of all matters and proceedings of the board, and shall preserve all contracts, records and notices, duplicate vouchers, duplicate receipts, and all accounts and records of whatsoever kind, and the same shall be the property of the district and shall be delivered to their successors in office.

[Acts 1925, S.B. 84.]

Art. 7844. Disbursements

All payments of any district funds shall be by voucher upon the district depository, and all such vouchers shall be signed by the president or any two directors. All vouchers shall be issued from a regular duplicate book containing a duplicate, which shall be preserved.

[Acts 1925, S.B. 84.]

Art. 7845. District depository

The directors shall select a depository for such district in the same manner as now provided by law for the selection of county depositories, and such depository shall be regulated by the same laws as those governing county depositories. In such selection, the directors shall perform the same duties as are incumbent upon the county judge and members of the commissioners court in the selection of county depositories. Such depository shall make and file reports and preserve the district records as required of depositories under Chapter 2 hereof.

[Acts 1925, S.B. 84.]

Art. 7846. Audit and report

The directors shall annually require an audit to be made of the district records and accounts, at the time and in the manner provided for audits of Water Improvement Districts under Chapter 2 of this title, and on the first of January of each year they shall make and file a report of the condition of the district affairs and other data required of directors of Water Improvement Districts.

[Acts 1925, S.B. 84.]

3. POWERS OF DISTRICT**Repeal**

This Chapter 3 of Title 128 is repealed by Water Code, § 50.258, which provides,

in part, that these articles "are continued in effect for the sole purpose of the administration and operation of any water control and preservation districts created" under these articles.

Art. 7847. Status of district

Any district may by and through its directors sue and be sued in the name of such district, and all courts of this State shall take judicial notice of the establishment of such districts; and said districts shall contract and be contracted with in the name of such districts. They shall have a circular seal containing a five pointed star in the center surrounded by the name of the district.

[Acts 1925, S.B. 84.]

Art. 7848. Suits affecting district

No suit shall be brought in any Court of this State contesting the validity or enjoining the formation of any district, or any bonds issued hereunder, or in anywise affecting the establishment of the district, or issuance of bonds by such district, except in the name of this State by the Attorney General, upon his own motion or upon the motion of any party affected thereby, upon good cause shown.

[Acts 1925, S.B. 84.]

Art. 7849. Property rights

The directors are hereby empowered to acquire the necessary right of way and property of any kind or character whatsoever for all necessary improvements contemplated by this chapter, by gift, grant, purchase or condemnation proceedings, within or without the boundaries of the district; and any property acquired may be conveyed to the United States in so far as the same shall be necessary for the construction, operation and maintenance of works by the United States under any contract that may be entered into between the district and the United States.

[Acts 1925, S.B. 84.]

Art. 7849a. Resisting water control officer

The directors of any Water Control and Preservation District and the engineers and employes thereof are hereby authorized to go upon any land lying within said district for the purpose of examining same for locating dams, bulkheads, jetties, locks, gates or any other character of improvement or construction necessary to the accomplishment of the purposes of the district, to make maps and profiles thereof, and are hereby authorized to go upon lands beyond the boundaries of such districts for the purposes stated and for any other purposes necessarily connected therewith whether herein enumerated or not. Any person who shall wilfully prevent or prohibit any such officer or employe from entering upon such land for such purpose shall be fined

Art. 7849a

one hundred dollars for each day he shall so prevent or prohibit such officer or employé.

[1925 P.C.]

Art. 7850. Eminent domain

The right of eminent domain is hereby conferred upon all districts for the purpose of condemning and acquiring the right of way over and through all lands, private and public, except property used for cemetery purposes, necessary for making and maintaining dams, bulkheads, jetties, locks, gates and all other improvements necessary and proper for such construction. Such right shall extend to any county in this State. All such condemnation proceedings shall be under the direction of the directors and in the name of the district; and all compensation and damages adjudicated in such proceedings shall be paid out of the "Construction and Maintenance Fund."

[Acts 1925, S.B. 84.]

Art. 7851. District engineer

The directors shall have authority to employ a competent engineer whose term of office shall be at the will of the directors. He shall make all necessary surveys, examinations, investigations, maps, plans, and drawings with reference to the proposed improvements. He shall make an estimate of the cost of such improvements, shall supervise the work thereon, and perform all such duties as may be required of him by the directors. If any proposed improvement or construction work necessary to the accomplishment of the purposes authorized in this chapter requires the permission or consent of the Federal Government or any department or officer thereof, the directors shall have authority to obtain such consent, and in lieu of or in addition to the employment of the district engineer, they shall have power to adopt any survey of any waters theretofore made by the United States, and to arrange for surveys, examination and investigation of the proposed improvements, and supervision of such work by the United States or the proper department or officer thereof.

[Acts 1925, S.B. 84.]

Art. 7852. Federal co-operation

The directors shall have full power to co-operate and act with the United States or any officer or department thereof, in any manner pertaining or relating to the construction and maintenance of any improvement, whether by survey, work or expenditure of money made or to be made, either by the directors or by Federal authority, or both. Such directors shall have authority to agree and consent to the United States entering upon and taking the management and control of said work of construction, repair or reconstruction and maintenance, in so far as it may be necessary or permissible under the

laws of the United States and the regulations and orders of any department thereof.

[Acts 1925, S.B. 84.]

Art. 7853. Construction contracts

If the district improvements are not carried out by the United States, the contracts for such improvements shall be let by the directors to the lowest and best responsible bidder. If more than one improvement is to be made, the contract may be let separately for each, or one contract for all such improvements. These rules shall govern the letting of such contracts: 1. Bids shall be called for by advertising the same in one or more newspapers of general circulation in Texas, once a week for four consecutive weeks, and by posting notices for at least thirty days at the courthouse door of the counties in the district and four other notices in each county. 2. Any person, firm, or corporation desiring to bid on the construction of any work so advertised, upon application to the district secretary, shall be supplied with the surveys and plans for said work. All bids shall be in writing and sealed and delivered to the president or district secretary, together with a certified check for two per cent of the total amount bid. Such deposit shall be forfeited to the district in case the bidder refuses to enter into a proper contract and make the necessary bond, if his bid is accepted or returned to the bidder if his bid is rejected. Any bid may be rejected at the discretion of the directors. 3. Each contractor shall give bond payable to the district in such amount as may be determined by the directors, not to exceed the contract price, and not less than fifty per cent thereof, conditioned that he will faithfully perform the obligations, agreements and covenants of such contract, and that in default thereof, he will pay to said district all damages sustained by reason thereof; and such other conditions as may be required by law of contractors for public work. Said bond shall be approved by the directors. 4. All contracts shall be in writing and signed by the contractors and president of the directors and attested by the district secretary. A copy of same shall be filed with the clerk of the county in which the largest portion of such district is situated.

[Acts 1925, S.B. 84.]

Art. 7854. Supervision of work

All work contracted for, unless done under Federal supervision, shall be done under the supervision of the district engineer. When the work is completed according to the contract, he shall make a detailed report of same to the directors, showing whether the contract has been fully complied with according to its terms, and if not, in what particular it has not been so complied with. The directors shall not be bound by such report, but may in addition thereto fully investigate such work and determine whether or not such contract has been

complied with; and while such work is in progress, they shall inspect the same.

[Acts 1925, S.B. 84.]

Art. 7855. Contract: payment

(a) The District shall pay the contract price of such contracts as hereinafter provided:

(b) The directors shall draw a voucher on the District depository for the amount of any payments in favor of the contractor or his assignee. Said vouchers shall be paid out of the Construction and Maintenance Fund. The District will make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the district engineer, on estimates approved by the district engineer. If requested by the district engineer, the contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates the district engineer, at his discretion, may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the contractor at locations other than the site may also be taken into consideration (1) if such consideration is specifically authorized by the contract and (2) if the contractor furnishes satisfactory evidence that he has acquired title to such material and that it will be utilized on the work covered by this contract.

(c) In making such progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the directors, at any time after 50 percent of the work has been completed, find that satisfactory progress is being made, they may authorize any of the remaining progress payments to be made in full. Also, whenever the work is substantially complete, the directors, if they consider the amount retained to be in excess of the amount adequate for the protection of the district, at their discretion, may release to the contractor all or a portion of such excess amount. Furthermore, on completion and acceptance of each separate project, public work, or other division of the contract, on which the price is stated separately in the contract, payment may be made therefor without retention of a percentage.

[Acts 1925, S.B. 84. Amended by Acts 1971, 62nd Leg., p. 2775, ch. 899, § 1, eff. June 14, 1971.]

Art. 7856. Maintenance of district

After the full and final completion of all improvements of the district, and after payment of all expenses incurred under this chapter, the directors are authorized to use the funds remaining in the Construction and Maintenance Fund for the best interest of such district in the preservation, upkeep,

repair and reconstruction of the works of such district.

[Acts 1925, S.B. 84.]

Art. 7857. Joint project

Two or more districts may by contract join in the construction of any improvement and enter upon any work authorized hereunder, as a joint project, when in the judgment of the directors of each district, such improvement, work or construction will be advantageous to the respective districts. Such contract shall stipulate the pro rata amount to be paid by each district for such project to provide for its maintenance, repair and reconstruction, and shall be executed by the directors. Such project may be undertaken regardless of the location of the proposed work. Such contract may be enforced and specific performance compelled by any court of competent jurisdiction.

[Acts 1925, S.B. 84.]

Art. 7858. Joint action

When improvements are constructed by two or more districts, bids may be jointly called for and opened and considered at the designated office of either district, and the directors of such districts shall approve the letting of the contract and contractor's bond, and may meet and transact all business for that or any other purpose concerning such project at a place outside the district, or at any office established for such joint project. All bids, bonds, contracts, etc., of said project shall be in the name of said districts, which are empowered to do all acts by joint action that one district may do, the action of each district being determined by its directors. A general manager, who may be a director of either district, may be employed for such project, whose duties may be set forth in the joint ownership contract.

[Acts 1925, S.B. 84.]

4. BONDS

Repeal

This Chapter 3 of Title 128 is repealed by Water Code, § 50.258, which provides, in part, that these articles "are continued in effect for the sole purpose of the administration and operation of any water control and preservation districts created" under these articles.

Art. 7859. Issuance of bonds

Immediately after their organization, the directors shall enter an order directing the issuance of bonds for such district within the limits authorized by the election held therefor, sufficient to cover the cost of the proposed improvements, all of the expenses incident thereto, and the expenses necessarily incurred in connection with the creation and establishment of the district; and they shall levy a tax upon all property subject to taxation in the

Art. 7859

district, sufficient to pay the interest on such bonds, with an amount to be placed in the sinking fund sufficient to redeem said bonds at maturity, and such levy shall remain as a levy for such purpose until a new levy is made.

[Acts 1925, S.B. 84.]

Art. 7860. Bonds: requisites

All bonds issued under this chapter shall be governed by the provisions of Chapter 2 of this title governing the issuance, denomination, rate of interest, maturity dates, manner of payment, proceedings to test validity, and registration by the Comptroller, of bonds of water improvement districts.

[Acts 1925, S.B. 84.]

Art. 7861. Bonds: limit of issue

Said bonds shall not exceed in amount one-fourth of the assessed valuation of the real property of such district.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(i), eff. Jan. 1, 1982.]

Art. 7862. Bonds: record

The directors shall provide a well bound book in which a record shall be kept by the clerk of the county in which the largest portion of said district is situated, of all bonds issued with their numbers, amounts, rate of interest, date of issue, when due, where payable, the annual rate of tax levy made each year to provide for interest and sinking fund, and of each payment made thereon. The district secretary shall furnish said clerk a certified copy of all orders made in connection with the issuance and levy and assessment of taxes for the payment of interest and creating a sinking fund. Said record shall be at all times open to the inspection of all parties interested in said district, either as taxpayers or bondholders.

[Acts 1925, S.B. 84.]

Art. 7863. Change in plans

If after an election has been held for the issuance of bonds, the directors shall consider it necessary to make any modification or change in any proposed improvements, they shall, with the concurrence of all the directors, be authorized to make such change.

[Acts 1925, S.B. 84.]

Art. 7864. Additional bonds

If the directors shall determine to make additional improvements, works or construction in order to carry out the purposes for which said district was organized, or to reconstruct any improvements theretofore made, and the amount derived from the bonds issued or authorized is not sufficient, a resolution to that effect shall be duly entered upon the minutes of the board, and a certified copy thereof

presented to each commissioners court in the district.

[Acts 1925, S.B. 84.]

Art. 7865. Resolution

Said resolution shall set forth the proposed work, the amount of bonds to be issued to pay for same, their rate of interest and maturity dates, and shall embody therein a request to the commissioners court or courts to order an election in such counties to vote on such propositions and whether or not a tax shall be levied to provide for the interest and sinking fund for such bonds at a day specified in the resolution.

[Acts 1925, S.B. 84.]

Art. 7866. Additional bonds: requisites

The commissioners court must, on receipt of such resolution, order an election on the day specified therein. Notice of such election shall be given, returns made, result declared, orders entered, tax levied, certified, assessed and collected, and all other matters applicable shall be performed in the same manner as herein provided in case of elections for original bonds. All provisions as to the issuance, approval, validation, registration, recordation and sale of original bonds shall be applicable to such additional bonds.

[Acts 1925, S.B. 84.]

Art. 7867. Additional bonds: ballot

The ballot for such election shall have printed thereon the words and none other: "For the issuance of additional Water Control and Preservation Bonds and levy of tax in payment thereof;" "Against the issuance of additional Water Control and Preservation Bonds and levy of tax in payment thereof."

[Acts 1925, S.B. 84.]

Art. 7868. Bonds: sale

After registration of said bonds by the Comptroller, the directors shall sell the same on the best terms and for the best price possible, not less than their face value and the accrued interest thereon; or they may exchange bonds in payment of the contract price for work to be done for the use and benefit of said district. All moneys received from the sale of bonds shall be forthwith paid to the district depository.

[Acts 1925, S.B. 84.]

Art. 7869. Construction and maintenance fund

There is hereby created a "Construction and Maintenance Fund" of such district, which shall consist of all moneys received from the sale of bonds and all other amounts received by said district from whatsoever source, except the tax collections applied to the interest and sinking fund on bonds. All expenses of any kind prior to and after the filing of the original petition necessarily in-

curred in connection with the creation, establishment and maintenance of any district, and improvements, repairs, cost of maintenance, salaries of all officers and employes, and all expenditures for any purposes of the district shall be paid out of such fund.

[Acts 1925, S.B. 84.]

5. TAXES

Repeal

This Chapter 3 of Title 128 is repealed by Water Code, § 50.258, which provides, in part, that these articles "are continued in effect for the sole purpose of the administration and operation of any water control and preservation districts created" under these articles.

Art. 7870. Tax levy

The directors shall annually levy and cause to be assessed taxes upon all property within said district sufficient to pay the expenses of assessing and collecting same, and a tax sufficient for the expenses incident to the maintenance of the district.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(j), eff. Jan. 1, 1982.]

Art. 7871. Assessment and collection of taxes

The county tax assessor-collector shall assess and collect the taxes levied by the district.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(j), eff. Jan. 1, 1982.]

Arts. 7872 to 7876. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing these articles, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 7877. Maintenance tax

The directors shall have authority as occasion may require, in their discretion, to levy a tax on all property within such district in an amount sufficient to pay for the proper maintenance, operation and repair of any dams, bulkheads, jetties, locks, gates or any other improvement constructed by said district.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(j), eff. Jan. 1, 1982.]

Repeal

This article is repealed, along with arts. 7808 to 7871, 7879, and 7880, by Water Code, § 50.258, which provides, in part, that this article is "continued in effect for the sole purpose of any water control and preservation district created under those laws."

Art. 7878. Repealed by Acts 1979, 66th Leg., p. 2329, ch. 841, § 6(a)(1), eff. Jan. 1, 1982

Section 1 of Acts 1979, 66th Leg., ch. 841, repealing this article, enacted the Property Tax Code, constituting Title 1 of the Tax Code.

Art. 7879. Interest and sinking fund

There is hereby created an "Interest and Sinking Fund" for such district, and all taxes collected under this chapter for the payment of bonds and interest thereon shall be credited to such fund and shall never be paid out except for the purpose of satisfying and discharging the interest on said bonds, or for the payment, cancellation and surrender of said bonds. At the time of such payment, the depository shall receive and cancel any interest coupon so paid or any bond so satisfied or discharged, and when such coupon or bond shall be turned over to the directors, the account of such depository shall be credited with the amount thereof, and such coupon or bond shall be cancelled and destroyed.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(j), eff. Jan. 1, 1982.]

Repeal

This article is repealed, along with arts. 7808 to 7871, 7877, and 7880, by Water Code, § 50.258, which provides, in part, that this article is "continued in effect for the sole purpose of any water control and preservation district created under those laws."

Art. 7880. May invest sinking fund

The directors are empowered, whenever they deem it advisable, to invest any sinking fund of the district in bonds of the United States, of this State, of any county of Texas, any irrigation or water improvement or navigation bonds, or bonds of any school district in Texas authorized to issue bonds. No bonds shall be so purchased whose terms provide for their maturity at a date subsequent to the time of the maturity of the bonds for the payment of which such sinking fund was created.

[Acts 1925, S.B. 84. Amended by Acts 1979, 66th Leg., p. 2317, ch. 841, § 4(j), eff. Jan. 1, 1982.]

Repeal

This article is repealed, along with arts. 7808 to 7871, 7877, and 7879, by Water Code, § 50.258, which provides, in part, that this article is "continued in effect for the sole purpose of any water control and preservation district created under those laws."

V. NAVIGATION

CHAPTER NINE—NAVIGATION DISTRICTS

2. SPECIAL POWERS

B. Pilots

Art.
8248. Pilot Board.

Art. 8248**Art.**

- 8249. Jurisdiction.
- 8250. Supervision of pilots.
- 8251. Applicant's qualifications.
- 8252. Powers of board.
- 8253. Branch pilot license.
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- 8255. Pilotage charges.
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- 8257. Unauthorized pilot: liability.
- 8258. Pilots for mouth of Brazos.
- 8259. Pilots for Matagorda and Lavaca Bays.
- 8260. Rules for branch pilots applicable.

SPECIAL POWERS**B. Pilots****Art. 8248. Pilot Board**

The navigation and canal commissioners of any navigation district included in Part A of this subdivision, in connection with their other duties as such commissioners, shall constitute a Pilot Board, and be commissioners of pilots and their terms of office as such shall be contemporaneous with their terms of office as navigation and canal commissioners. No person who is engaged directly or indirectly in the towing business or in any pilot boat, or in any other business affected by or connected with the performance of his duties as a commissioner of pilots, shall be a member of such pilot board.

[Acts 1925, S.B. 84.]

Art. 8249. Jurisdiction

Such navigation districts shall have exclusive jurisdiction as hereinafter defined over the pilotage of boats between the Gulf of Mexico and their respective ports, as well as of intermediate stops or landing places for such boats upon navigable streams wholly or partly within such navigation districts.

[Acts 1925, S.B. 84.]

Art. 8250. Supervision of pilots

The right, power and authority is hereby granted to such commission to appoint, suspend or dismiss from office, branch pilots or deputy pilots of their respective ports, and to examine and determine upon their qualifications. No branch pilot or deputy pilot shall be suspended or dismissed except for misconduct, inefficiency, or inebriety on duty, and after due hearing of accusation, testimony and defense before said board of navigation and canal commissioners.

[Acts 1925, S.B. 84.]

Art. 8251. Applicant's qualifications

Before making any appointments as branch pilot or deputy pilots, the commissioners shall examine and determine upon the qualifications for office of each applicant for the position of branch pilot or deputy pilot; and shall require of each of said applicants such terms of residence in this State

preceding such appointment as they may deem advisable, not to exceed two years.

[Acts 1925, S.B. 84.]

Art. 8252. Powers of board

The right, power and authority is further granted to such commissioners to fix rates of pilotage between the Gulf of Mexico and their respective ports, as well as intermediate stops or landing places for such boats, upon navigable streams wholly or partly within such districts; and to make, adopt and enforce all rules and regulations which they deem advisable in the matter of appointment, qualification and regulation of pilots and deputy pilots as may be needed for the government of pilots and their deputy pilots and the proper operation of their respective ports, not inconsistent with the Federal regulations thereof, the Constitution of Texas, or the provisions of this law.

[Acts 1925, S.B. 84.]

Art. 8253. Branch pilot license

All branch pilots appointed under and in accordance with this law or the rules and regulations of such navigation district shall enter into bond with one or more good and sufficient sureties in the sum of five thousand dollars, payable to the Governor, conditioned upon the faithful performance on any employee which together with any other insurance under commissioners of such district, and shall be deposited in the office of the Secretary of State. Each pilot shall also take the official oath, which shall be endorsed on said bond. Upon the filing of said bond, and the taking of said oath, the commissioners of such district shall certify to the Governor that each branch pilot has duly qualified to act as such, and thereupon the Governor shall issue to said branch pilot, in the name and under the seal of the State, a commission to serve as branch pilot from such ports, across any intermediate bars, to the open gulf; and said commission shall be for a term of four years, unless such branch pilot shall be dismissed from service by said navigation and canal commissioners, in which event such commission shall expire.

[Acts 1925, S.B. 84. Amended by Acts 1975, 64th Leg., p. 765, ch. 297, § 1, eff. May 27, 1975.]

Art. 8254. Deputy branch pilots

Each branch pilot may appoint, subject to examination and approval by the navigation and canal commissioners, two deputies for whose acts such branch pilot shall be responsible, and any branch pilot who shall appoint a deputy without the approval of said commissioners, shall forfeit his own appointment; provided that an additional deputy shall be appointed if such branch pilot and commissioners mutually deem it advisable.

[Acts 1925, S.B. 84.]

Art. 8255. Pilotage charges

The rates of pilotage charged by the pilots operating under this law shall at all times be fair and just, and a schedule of such rates shall at all times be on file in the office of the district commissioners, said schedule to be furnished by the pilots and strictly adhered to by them; provided that each time a change in the rate shall be effected, a revised schedule shall be filed as above specified. Whenever a vessel, (except vessels of twenty tons or under and all vessels excepted by Federal statutes and regulations) shall decline the services of a pilot operating under this law, offered outside the bar, and shall enter any channel subject to the jurisdiction of such navigation district, without the aid of a pilot operating under this law, such vessel shall be liable to the first pilot operating under this law whose services she had declined, for the payment of half-pilotage; and any vessel which, after being brought in by a pilot operating under this law, shall go without employing one, shall be liable to the payment of half-pilotage to the pilot operating under this law who brought her in; or if she has come in without the aid of such pilot, though offered outside, she shall, on so going out, be liable for the payment of one-half pilotage to the pilot operating under this law who has first offered his services before she came in.

[Acts 1925, S.B. 84.]

Art. 8256. Consignee liable for pilotage

The consignee of any vessel shall be held responsible to pilots operating under this law for the pilotage of said vessel or services offered, and such pilots shall be entitled to recover same from the consignee of said vessel in any court of competent jurisdiction.

[Acts 1925, S.B. 84.]

Art. 8257. Unauthorized pilot: liability

If any person not appointed a branch pilot or deputy pilot under this law shall pilot any ship or vessel out of, or into, the port, channel or waterway of which exclusive jurisdiction is, under this law, given to the navigation and canal commissioners of such navigation district, when a branch pilot or deputy pilot, operating hereunder has offered such services, the person so piloting shall forfeit and pay to such branch pilot or deputy pilot, the sum of fifty dollars, to be recovered by suit.

[Acts 1925, S.B. 84.]

Art. 8258. Pilots for mouth of Brazos

The Governor shall also appoint a sufficient number of competent pilots for the mouth of the Brazos River, whose terms of office, mode of qualification, and pilotage shall be the same as prescribed in the preceding articles for branch pilots; and they shall be entitled to all the privileges and shall exercise all the powers, and discharge all the duties prescribed for branch pilots, and be subject to like penalties.

The county judge of Brazoria County shall approve the bond of any such pilot.

[Acts 1981, 67th Leg., p. 2399, ch. 606, § 1, eff. Aug. 31, 1981.]

Section 3 of the 1981 Act provides:

"Only the provisions of Articles 8258 through 8260 herein shall be applicable only to the pilots and pilot commissioners regulated by such articles and laws pertaining to other ports and specifically Articles 8264 through 8277 shall not apply to the ports regulated under Articles 8258 through 8260."

Art. 8259. Pilots for Matagorda and Lavaca Bays

The Governor shall also appoint not less than two nor more than four competent pilots for Matagorda and Lavaca Bays, from Pass Cavallo to Indianola and Lavaca, who shall hold their offices for the same term as branch pilots, and whose mode of qualification, powers and privileges, insofar as the same are applicable, shall be the same; the bonds of such pilots shall be approved by the county judge of Calhoun County. The rate of pilotage for said bays shall be \$2.50 for each foot of water the vessel may draw at the time of piloting; and all vessels that may draw five feet or more shall be subject to pay any licensed pilot for said bays, whose services are tendered and declined, one-half the pilotage herein prescribed.

[Added by Acts 1981, 67th Leg., p. 2399, ch. 606, § 1, eff. Aug. 31, 1981.]

Art. 8260. Rules for branch pilots applicable

All the provisions of this chapter relating to branch pilots at ports, insofar as the same are applicable and not expressly qualified, shall apply to and govern pilots appointed for the mouth of the Brazos River and for Matagorda and Lavaca Bays. If any person not a licensed pilot or deputy shall pilot any vessel into or out of the mouth of said river or through the channel of said bays, up or down, he shall forfeit and pay to any pilot licensed or commissioned for the mouth of said river, or for said bays, full pilotage for such vessel, to be recovered by suit.

[Acts 1981, 67th Leg., p. 2399, ch. 606, § 1, eff. Aug. 31, 1981.]

CHAPTER TEN—PILOTS**1. PILOT BOARDS****Art.**

- 8264. Governor to appoint.
- 8265. Duties of board.
- 8266. Pilots' qualifications.
- 8267. Regulations and rates.
- 8268. Settlement of disputes.
- 8269. Boards in small ports.

2. BRANCH AND DEPUTY PILOTS

- 8270. Appointment.
- 8271. Bond and oath.
- 8272. May appoint deputies.
- 8273. Malfeasance.
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8275. Exemptions from extra pilotage.

8276. Consignee responsible for pilotage.

8277. Unauthorized pilot: liability.

8278 to 8280. Repealed.

8280a. Houston Pilots Licensing and Regulatory Act.

1. PILOT BOARDS

Art. 8264. [6299] [3790] Governor to appoint

The Governor shall appoint, with the consent of the Senate, for each port whose population and circumstances warrant it, for all of the ports in Galveston County and Brazoria County, a board of five persons of respectable standing under the denomination of 'commissioners of pilots' for such port or ports, who shall be commissioned by the Governor for the term of two years; and the Governor shall, during the recess of the Legislature, be authorized to suspend, until the next session of the same, any of said commissioners, and to fill, until the same period, any vacancies in the board caused by death, resignation or otherwise. No member of the board of commissioners shall be directly or indirectly pecuniarily interested in any pilot boat or branch pilot in the business of their trust.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 1177, ch. 462, § 1.]

Acts 1981, 67th Leg., p. 2399, ch. 606, § 1, added arts. 8258 to 8260. Section 3 of said Act provides:

"Only the provisions of Articles 8258 through 8260 herein shall be applicable only to the pilots and pilot commissioners regulated by such articles and laws pertaining to other ports and specifically Articles 8264 through 8277 shall not apply to the ports regulated under Articles 8258 through 8260."

Art. 8265. Duties of board

Said board of commissioners shall be authorized, if they deem it advisable, to examine and decide on the qualifications of any branch or deputy pilot whom they find already appointed at the time of their organization; and it shall be their duty to examine each new applicant for the office of branch or deputy pilot, and to decide on his qualifications, recommending to the Governor, where new appointments are proper, such as are meritorious; and it shall also be their duty to examine into any cause of alleged or supposed misconduct or inefficiency in branch or deputy pilots; and they shall be authorized, after a due hearing of accusation testimony and defense, to suspend such pilot if sufficient cause appear, and during such suspension he shall not be allowed to exercise the functions of his office; the Governor shall, however, have power at his will and pleasure to remove any branch pilot, or to reinstate any one of the same who has been suspended by the commissioners.

[Acts 1925, S.B. 84.]

Art. 8266. Pilots' qualifications

The board shall require a certain term of residence in this State, not less than two years, to authorize any person to exercise the functions of

branch pilot for their port or said bays; as also to establish a term of probation, not exceeding one year, as a deputy pilot before any person can exercise the functions of branch pilot.

[Acts 1925, S.B. 84.]

Art. 8267. Regulations and Rates

(A) The board shall have authority, within the limits provided in this subdivision, to fix rates of pilotage, and to establish regulations respecting the stations whereat and the times wherein pilots shall be on duty, with provisions for leave of absence; as also respecting the class, condition, number and use of pilot boats, and such other minor regulations, compatible with the provisions of this subdivision, as may be needed for the government of pilots and for the order and good effect of the proceedings of the board, of which proceedings a record shall be kept; provided no regulation shall be adopted repugnant to the Constitution.

(B) The commissioners of pilots in no case shall authorize or fix a rate or rates of pilotage applicable to any port in Galveston County differing from the rate in effect at the time of this enactment unless and until the following procedure has been completed:

(1) An application for the establishment of a new rate of pilotage has been filed with each commissioner by one or more pilots or by the owner, agent, or other person defined as "consignee" of a vessel in Article 8276 of this Title, provided such application for increase or decrease of rates shall contain a brief statement of the circumstances which it is alleged warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilots and such associations of "consignees" as defined in Article 8276 of this Title, as are operating in Galveston County at the time of the application.

(2) In the event the notice required is in fact given and no written objection on the part of any legitimately interested party is received by any commissioner within 20 days after said notice is sent, the commissioners shall proceed to act upon the application as they see fit without further proceedings, and file their action thereupon with the county clerk as provided in Subparagraph (9), within 20 days after the initial 20-day notice period.

(3) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after expiration of the initial 20-day notice period for the filing of and objection to the application and shall notify the applicants, the persons objecting to the application and such other parties as the commissioners may, in their sole discretion, determine to be interested in the proceedings, and

shall file their decision with the county clerk as provided in Subparagraph (9), within 20 days after the close of the hearing.

(4) Said hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, upon demonstrating a legitimate interest in the application, shall have the right to be heard, to present evidence and, to the extent deemed practical by the commissioners, cross-examine the witnesses appearing to testify at the hearing.

(5) After the receipt of the evidence offered by the parties and such arguments and briefs as the commissioners may desire to receive, the application shall be granted, denied, or modified by the commissioners.

(6) In determining their action upon any application the commissioners shall consider:

(a) The effect which the granting, refusal, or modification of the application would have upon the port or ports within the jurisdiction of the commissioners and the citizens residing in it;

(b) The assurance of an adequate and reasonable compensation to the pilots and a fair return upon the equipment and vessels which they employ in connection with their duties;

(c) The relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applying in other ports of this state and competitive ports in other states.

(7) The action of the commissioners in granting, denying, or modifying the application shall be final provided it is supported by substantial evidence.

(8) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and/or objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against said cost as a condition of presenting its application or objection. The costs authorized by this paragraph shall be strictly limited to the actual and reasonable cost of reporting and stenographic services.

(9) A copy of the commissioners' order with respect to the application shall be filed in the office of the county clerk and said order shall state when it is effective. No pilotage charges in excess of those in existence at the time of the passage of this Act shall be made with respect to the ports of Galveston County except pursuant to such an order so filed by the commissioners. Pilotage rates for the ports of Galveston County properly fixed pursuant to this Article shall not be subject to the maximum limits contained in Article 8274.

(C) The commissioners of pilots in no case shall authorize or fix a rate or rates of pilotage applicable to the public ports of Beaumont, Orange or Port

Arthur, Texas, or of the privately owned docks or terminals in Orange or Jefferson Counties, Texas, differing from the rate in effect at the time of this enactment unless and until the following procedure has been completed:

(1) An application for the establishment of a new rate of pilotage in one of the counties has been filed with each commissioner by pilot associations or by the owner, agent, or other person defined as "consignee" of a vessel in Article 8276 of this Title, provided such "consignee" maintains an office in the county in which the application is filed, or by the Port of Port Arthur Navigation District or the Orange County Navigation and Port District or the Port of Beaumont Navigation District, which application for increase or decrease of rates shall contain a brief statement of the circumstances which it is alleged warrant the requested action of the commissioners and shall also contain a certificate that the applicant has submitted copies of the application to all known pilot associations and navigational districts and associations of "consignees" as defined in Article 8276 of this Title, as are operating in the counties at the time of the application.

(2) In the event the notice required is in fact given and no written objection on the part of any legitimately interested party is received by any commissioner within 20 days after said notice is sent, the commissioners shall proceed to act upon the application as they see fit without further proceedings, and file their action thereupon with the appropriate county clerks as provided in Subparagraph (8), within 20 days after the initial 20-day notice period.

(3) In the event any commissioner receives in writing an objection to the application from any person, firm, or corporation who appears to have a legitimate interest in the application within 20 days after notice of the filing of the application was given, the commissioners shall hold a hearing within 20 days after expiration of the initial 20-day notice period for the filing of and objection to the application and shall notify the applicants, the persons objecting to the application and such other parties as the commissioners may, in their sole discretion, determine to be interested in the proceedings, and shall file their decision with the appropriate county clerks as provided in Subparagraph (8), within 20 days after the close of the hearing.

(4) Said hearing shall be held at a convenient and public place in any one of the ports affected and shall be open to the public. At the hearing all parties, upon demonstrating a legitimate interest in the application, shall have the right to be heard, to present evidence and, to the extent deemed practical by the commissioners, cross-examine the witnesses appearing to testify at the hearing.

(5) After the receipt of the evidence offered by the parties and such arguments and briefs as the commissioners may desire to receive, the application shall be granted, denied, or modified by the commis-

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sioners. However, it is expressly provided that no increase of rates to either the public ports of Beaumont, Port Arthur or Orange, Texas, shall ever be set, established or granted unless the Board of Commissioners of the Port of Beaumont Navigation District, Port of Port Arthur Navigation District or Orange County Navigation and Port District so affected shall approve same.

(6) In determining their action upon any application the commissioners shall consider:

(a) The effect which the granting, refusal, or modification of the application would have upon the port or ports within the jurisdiction of the commissioners and the citizens residing in it;

(b) The assurance of an adequate and reasonable compensation to the pilots and a fair return upon the equipment and vessels which they employ in connection with their duties;

(c) The relationship between the pilotage rates in the ports under the commissioners' jurisdiction and the rates applying in other ports of this state and competitive ports in other states.

(7) The commissioners shall have the authority to assess the actual cost of reporting and secretarial services necessarily incurred in connection with any hearing against one or more of the applicants and/or objecting parties as shall appear to the commissioners to be fair and just. The commissioners may further require that any applicant or objecting party deposit a sum against said cost as a condition of presenting its application or objection. The costs authorized by this paragraph shall be strictly limited to the actual and reasonable cost of reporting and stenographic services.

(8) A copy of the commissioners' order with respect to the application shall be filed in the offices of the appropriate county clerks and said order shall state when it becomes effective. No pilotage charges in excess of those in existence at the time of the passage of this Act shall be made with respect to the public ports of Orange, Beaumont, Port Arthur or any privately owned docks or terminals in Orange or Jefferson Counties, Texas, except pursuant to such an order so filed by the commissioners. Pilotage rates for the public ports of Orange, Beaumont, Port Arthur or any privately owned docks or terminals in Orange or Jefferson Counties, Texas, fixed pursuant to this Article shall not be subject to the maximum limits contained in Article 8274.

[Acts 1925, S.B. 84. Amended by Acts 1969, 61st Leg., p. 2322, ch. 785, § 1.]

Art. 8268. Settlement of disputes

The board shall be authorized and required to hear and determine all disputes that may arise respecting pilots and pilotage; to award to pilots extra compensation for extra services to vessels in distress; as also compensation for injurious loss of time incurred by pilots in waiting on vessels or by

being carried off to sea on vessels by default of the master or owner when such pilots might have been landed; provided, always that no more than three dollars for each day shall be awarded for mere loss of time; and said board shall superintend and generally attend to all matters appertaining to pilots and pilotage; but from any decision of said board an appeal may be taken to the court having cognizance of the case.

[Acts 1925, S.B. 84.]

Art. 8269. Boards in small ports

At any port whose population and circumstances do not warrant the appointment of a board of commissioners of pilots in the manner before provided, the Governor may authorize the county judge of the county to appoint a provisional committee of from three to five persons of good character and maritime experience who shall be authorized under this chapter to establish the rates of pilotage and the rules for governing pilots; to examine the qualifications of pilots and applicants for the office; to investigate the case of any pilot charged with misconduct or inefficiency, and to suspend him if sufficient cause appear.

[Acts 1925, S.B. 84.]

2. BRANCH AND DEPUTY PILOTS

Art. 8270. Appointment

The Governor shall appoint at each of the ports and for all of the ports in Galveston County, such number of branch pilots as may from time to time be necessary, each of whom shall hold his office for the term of four (4) years.

[Acts 1925, S.B. 84. Amended by Acts 1963, 58th Leg., p. 1178, ch. 463, § 1; Acts 1969, 61st Leg., p. 2124, ch. 728, § 1.]

Art. 8271. [6306] [3797] Bond and oath

Each branch pilot shall give bond, with two or more good and sufficient sureties, in the sum of five thousand dollars, payable to the Governor, and conditioned for the faithful performance of the duties of his office. Such bond shall be approved by the board of commissioners of pilots for the port, or if there be no such board, by the county judge of the county in which the port is situated, and forwarded to the Governor. Each pilot shall also take and subscribe the official oath which shall be endorsed on said bond, and together with the bond shall be recorded in the office of the county clerk of the county in which such port is situated before being forwarded to the Governor. Certified copies of said bonds, under the hand and seal of the county clerk, may be used as evidence in all the courts with like effect as the originals.

[Acts 1925, S.B. 84.]

Art. 8272. May appoint deputies

Each branch pilot may appoint subject to examination and approval by the board of commissioners, two deputies, for whose acts the branch pilot so appointed shall be responsible; and any branch pilot who shall appoint a deputy without the approval of said board shall forfeit his own appointment and said board shall have authority to restrict all deputy pilots from piloting over the bar vessels of over a certain draught of water.

[Acts 1925, S.B. 84.]

Art. 8273. Malfeasance

Any branch or deputy pilot in a state of inebriety who shall take charge of a vessel shall, upon proof of the same, for the first offense be suspended for one month, and for the second offense be dismissed and be rendered incapable of again serving in either capacity. If any branch or deputy pilot shall willfully or by neglect cause the wreck of a vessel, he shall be dismissed and be rendered incapable of again serving in either capacity.

[Acts 1925, S.B. 84.]

Art. 8274. Pilotage

Except for rates fixed pursuant to Article 8267, as amended, for Galveston County ports and for the public ports of Orange, Port Arthur and Beaumont and any privately owned docks or terminals in Orange or Jefferson Counties, the rate of pilotage which may be fixed under Articles 8267 and 8269 on any class of vessel shall not, in any port of this state (except as hereinafter provided) exceed \$6.50 for each foot of water which the vessel at the time of piloting draws, and whenever a vessel, except of the classes below excepted, shall decline the services of a pilot offered outside the bar, and shall enter the port without the aid of one, she shall be liable to the first pilot whose services she so declined for the payment of half pilotage; and any vessel which, after being brought in by the pilot, shall go out without employing one, shall be liable to the payment of half pilotage to the pilot who brought her in, or if she has come in without the aid of a pilot, though offered outside, she shall on so going out be liable for the payment of half pilotage to the pilot who had first offered his services before she came in; but if she has come in without the aid of a pilot, or the offer of one outside, she shall not, in case of going out without a pilot, be liable to half pilotage. At any port where vessels shall receive or discharge their cargoes at an anchorage outside of the bar, such vessel shall be liable to pilotage at the above rate to such anchorage, but shall not be liable for or compelled to pay pilotage from such anchorage to the open sea; and if any vessel bound from open sea to such anchorage, while under way, shall decline the services of a pilot, and shall afterward receive or discharge any portion of her cargo at such anchorage on the lighters or otherwise, she shall be liable for the payment of half pilotage, at the above rate, to such anchorage to the first pilot

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whose services shall have been tendered to and declined by her, but not liable for any pilotage from such anchorage to the open sea; and when a pilot takes charge of a vessel 20 miles outside of the bar, and brings her to it, he shall be entitled to one-fourth pilotage for such offshore service, in addition to what he is entitled to recover for bringing her in; but if such offshore service be declined, no portion of said compensation shall be recovered.

[Acts 1925, S.B. 84. Amended by Acts 1951, 52nd Leg., p. 252, ch. 148, § 1; Acts 1953, 53rd Leg., p. 61, ch. 48, § 1; Acts 1955, 54th Leg., p. 648, ch. 224, § 1; Acts 1959, 56th Leg., p. 33, ch. 21, § 1; Acts 1961, 57th Leg., 1st C.S., p. 36, ch. 14, § 1; Acts 1963, 58th Leg., p. 1173, ch. 459, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 4, ch. 4, § 1, eff. Feb. 22, 1967; Acts 1969, 61st Leg., p. 2325, ch. 785, § 2, eff. June 14, 1969.]

Art. 8275. Exemptions from extra pilotage

The following classes of vessels shall be free from any charge for pilotage, unless for actual service, to-wit: All vessels of twenty tons and under, all vessels of whatsoever burthen owned in this State and registered and licensed in the district of Texas, when arriving from or departing to any port of this State; all vessels of seventy-five tons and under owned and licensed for the coasting trade in any part of the United States, when arriving from or departing to any port in the State of Texas; all vessels of seventy-five tons or under owned in this State and licensed for the coasting trade in the district of Texas, when arriving from or departing to any port in the United States.

[Acts 1925, S.B. 84.]

Art. 8276. Consignee responsible for pilotage

The consignee of any vessel shall be held responsible for the pilotage of said vessel. For the purposes of this Article, "consignee" shall include (i) the master, (ii) the owner, (iii) the agent, (iv) the sub-agent, and (v) any person, firm or corporation who enters or clears said vessel of the Collector of Customs. The pilot who serves said vessel, or who lawfully offers to serve said vessel, shall be entitled to recover lawful pilot fees, in any court of competent jurisdiction, jointly and severally from any one or more of said persons, firms, or corporations.

[Acts 1925, S.B. 84. Amended by Acts 1965, 59th Leg., p. 1191, ch. 552, § 1.]

Art. 8277. Unauthorized pilot: liability

If any person not appointed a branch or deputy pilot shall pilot any ship or vessel out of or into any port when a branch or deputy pilot has offered such service, the person so piloting shall forfeit and pay to such branch or deputy pilot the sum of fifty dollars to be recovered by suit.

[Acts 1925, S.B. 84.]

Arts. 8278 to 8280

Arts. 8278 to 8280. Repealed by Acts 1981, 67th Leg., p. 2400, ch. 606, § 2, eff. Aug. 31, 1981

Art. 8280a. Houston Pilots Licensing and Regulatory Act

ARTICLE 1. GENERAL PROVISIONS

Short title

Sec. 1.01. This Act may be cited as the Houston Pilots Licensing and Regulatory Act.

Definitions

Sec. 1.02. In this Act:

(1) "Pilot" means a person who is licensed as a branch pilot or certified as a deputy branch pilot under this Act.

(2) "Board" means the board of pilot commissioners created under this Act.

(3) "Pilotage rates" means the amount of remuneration a pilot may lawfully charge vessels for his services.

(4) "Pilot services" means acts of a pilot in conducting a vessel through the navigable water within the boundaries of the state and the port in which he is licensed or certified as a pilot.

(5) "Vessel" means every oceangoing, self-propelled vessel navigating the water within the board's jurisdiction except vessels exempt from payment of pilotage rates under this Act.

(6) "Port" means a place in this state into which vessels enter or from which vessels depart that is located in Harris County and the waterway leading to that place from the Gulf of Mexico.

(7) "Consignee" means the master, owner, agent, subagent, person, firm, or corporation or any combination of these that enters or clears a vessel at the office of the collector of customs.

Application of Act

Sec. 1.03. This Act applies to all ports located in Harris County.

Exemption for certain vessels

Sec. 1.04. The requirement to use a licensed pilot under this Act does not apply to the following classes of vessels:

(1) a vessel sailing under enrollment, or licensed or engaged in the coasting trade between Texas ports and between any Texas port and any other port of the United States;

(2) a vessel of whatever burthen owned and registered and licensed in this state; and

(3) a vessel exempt from payment of state pilotage rates under federal law.

ARTICLE 2. BOARD OF PILOT COMMISSIONERS

Creation of board

Sec. 2.01. A board of pilot commissioners is created for the ports of Harris County.

Board membership

Sec.2.02. The board is composed of the port commissioners of the Port of Houston Authority of Harris County, Texas.

Prohibited interest

Sec. 2.03. A person who is engaged or has any interest, directly or indirectly, in any pilot boat or in any other business affected by or connected with the performance of his duties as a pilot commissioner may not be a member of the board.

Oath

Sec. 2.04. Before beginning to serve as a member of the board, each board member shall take and subscribe, before someone authorized to administer oaths, an oath to discharge faithfully and impartially the duties of the office.

Terms of office

Sec. 2.05. Each person who serves on the board shall hold office as a member of the board for a term that coincides with the member's term as a port commissioner of the Port of Houston Authority of Harris County, Texas.

Administration and rules

Sec. 2.06. The board shall administer this Act in each of the ports within its jurisdiction and may adopt rules to carry out this Act and may perform any acts or functions necessary to carry out those powers and duties under this Act.

Jurisdiction of board

Sec. 2.07. The board shall have exclusive jurisdiction over piloting of vessels between the Gulf of Mexico and the ports within the board's jurisdiction, as well as intermediate stops and landing places for vessels on navigable streams wholly or partially located within the board's jurisdiction.

Board duties

Sec. 2.08. The board shall:

(1) establish the number of pilots necessary to provide adequate pilot services for each port under the board's jurisdiction;

(2) accept applications for pilot licenses and certificates and determine whether or not each applicant meets the qualifications for a pilot in this Act;

(3) submit to the governor lists of applicants found by the board to be qualified for appointment as pilots;

(4) establish pilotage rates to be charged for piloting vessels within the board's jurisdiction;

(5) approve the locations for pilot stations;

(6) establish times during which pilot services will be available;

(7) hear and determine complaints relating to the conduct of pilots;

(8) recommend to the governor any pilot whose license or certificate should not be renewed or should be revoked;

(9) adopt rules and issue orders to pilots and vessels when necessary to secure efficient pilot services within the board's jurisdiction;

(10) institute investigations or hearings or both to consider casualties, accidents, or any other action that violates this Act;

(11) provide penalties to be imposed on any person who is not appointed a branch pilot for the port who pilots any ship or vessel into or out of the port, channel, or waterway under the jurisdiction of the board if a branch pilot or deputy pilot operating under this Act offered those services to the ship or vessel.

Unfair discrimination prohibited

Sec. 2.09. (a) In all its duties, including rule making, the board shall not sanction discriminatory practices nor discriminate against any applicant, licensed pilot, branch pilot, or deputy branch pilot on account of race, religion, sex, ethnic origin, or national origin.

(b) Remedies for a violation of this section shall be sought as provided in Section 3.03 of this Act.

ARTICLE 3. BOARD PROCEDURES

General procedures

Sec. 3.01. Except as specifically provided by this Act, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), applies to actions and proceedings under this Act.

Additional notice

Sec. 3.02. (a) The board shall give at least 10 days' notice of its intention to adopt a rule or to change pilotage rates by posting at the office of the board for public inspection a copy of the proposed rule or change.

(b) The board shall post in its office for public inspection a notice that includes the same information as the notice given to the parties in each contested case.

Judicial review

Sec. 3.03. Proceedings for judicial review of a board decision shall be brought in a district court in Harris County.

ARTICLE 4. PILOTS' LICENSES AND CERTIFICATES

License or certificate required

Sec. 4.01. It shall be unlawful for a person to provide pilot services as a branch pilot or deputy branch pilot unless that person has a valid license or certificate issued under this Act for the ports within the jurisdiction of the board in which the pilot services are to be provided.

Qualifications for a license

Sec. 4.02. (a) To be eligible for a license as a branch pilot for ports within the jurisdiction of the board, a person must:

(1) be at least 25 years of age;

(2) be a United States citizen;

(3) as of the date that the license is issued, have resided in the state for a continuous period of not less than one year;

(4) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services;

(5) have at least two years' service as a deputy branch pilot or equivalent service piloting vessels of at least 5,000 gross tons within the board's jurisdiction;

(6) have exercised command or have exercised control of navigation of vessels such as he would pilot; and

(7) have extensive experience in the docking and undocking of oceangoing vessels.

(b) In addition to the qualifications stated in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill as a navigator and pilot to perform competently and safely the duties of a branch pilot.

Qualifications for a certificate

Sec. 4.03. (a) To be eligible for a certificate as a deputy branch pilot for ports within the board's jurisdiction, a person must:

(1) be at least 25 years of age;

(2) be a United States citizen; and

(3) be licensed under federal law to act as a pilot on vessels that navigate water on which the applicant will furnish pilot services.

(b) In addition to the qualifications stated in Subsection (a) of this section, the applicant must be found by the board to be in good mental and physical health, to have good moral character, and to possess the requisite skill to perform competently and safely the duties of a deputy branch pilot.

Application for license or certificate

Sec. 4.04. (a) An applicant for a branch pilot's license or a deputy branch pilot's certificate shall submit a written application to the board.

(b) The application shall be submitted to the board in the form and in the manner required by the board in its rules.

Consideration of application; examination

Sec. 4.05. (a) The board shall carefully consider each application submitted to it and shall conduct any investigation it considers necessary to assist it in determining whether or not an applicant is qualified for a license or certificate.

(b) As part of its consideration of applications for licenses and certificates, the board may develop and administer examinations to determine each applicant's knowledge of piloting, management of vessels, and the water within the board's jurisdiction.

Issuance of license

Sec. 4.06. On filing of the bond and oath provided by Section 4.09 of this Act, the board shall certify to the governor that the branch pilot has duly qualified to act as a branch pilot, and on receiving this certification, the governor shall issue to the branch pilot, in the name and under the seal of the state, a commission to serve as a branch pilot from the ports within the jurisdiction of the board, across intermediate bars, to and from the open gulf.

Appointment of deputy pilots

Sec. 4.07. (a) Subject to examination and approval of the board, each branch pilot may appoint two deputy pilots for whose acts the branch pilot is responsible.

(b) A branch pilot who appoints a deputy pilot without the approval of the board shall forfeit his own appointment as a branch pilot.

(c) An additional deputy pilot may be appointed if the branch pilot and the board mutually consider such an appointment advisable.

Terms of licenses and certificates

Sec. 4.08. (a) A license issued under this Act expires four years from the date it is issued or renewed.

(b) A certificate issued under this Act expires two years from the date it is issued and is not renewable.

Oath and bond

Sec. 4.09. (a) Before entering into service as a pilot, a person appointed to be a branch pilot or deputy branch pilot shall take the official oath which shall be endorsed on the bond required by this section.

(b) Each pilot shall execute a bond for \$25,000 conditioned on compliance with the laws, rules, and

orders relating to pilots and on the faithful performance of the pilot's duties and payable to the governor.

(c) Each bond must be approved by the board.

Renewal of branch pilot license

Sec. 4.10. (a) Every four years, on written application and successful qualification, a branch pilot's license shall be renewed by the governor on recommendation of the board for an additional four-year term unless the board determines that probable cause exists for not renewing the license.

(b) Probable cause exists for not renewing a license if the board finds that the licensee no longer possesses one or more of the qualifications stated in this Act for pilots or suffers from a disability that will affect his ability to serve as a pilot.

(c) If the board determines that it has probable cause for not renewing a license, it shall give notice of this fact to the licensee not less than 60 days before expiration of the license and, on request, shall offer the licensee the opportunity for a hearing after proper notice to consider whether or not cause exists for not renewing the license.

(d) If the board finds at the conclusion of the hearing that no probable cause exists for nonrenewal, the board shall renew the license for another term.

(e) If a pilot does not contest the board's decision not to renew the license or if the board after its hearing finds that there is probable cause for nonrenewal, the board shall issue a written order recommending to the governor that the license not be renewed, and the governor shall refuse renewal of the license.

(f) Denial of renewal of a pilot's license does not prevent the former licensee from applying for a new license and being reappointed by the governor at a later time if the licensee then meets all qualifications for a license under this Act.

Deputy branch pilots

Sec. 4.11. (a) A deputy branch pilot's certificate expires two years from the date it is issued.

(b) No person may be issued more than one deputy branch pilot's certificate within any period of five consecutive years.

(c) A deputy branch pilot's certificate may be suspended or revoked by the board in the same manner and for the same reasons provided for branch pilots' licenses by Section 4.12 of this Act.

Suspension and revocation of a license

Sec. 4.12. (a) On complaint or on its own motion and after notice and hearing, the board may suspend a pilot's license for up to six months or may recommend to the governor revocation of a pilot's license if the board finds that the pilot has:

(1) failed to demonstrate and maintain the qualifications for license required by this Act;

(2) used narcotics or other types of drugs, chemicals, or controlled substances as defined by law that impair the pilot's ability to perform his duties skillfully and efficiently;

(3) used alcohol to an extent that impairs the pilot's ability to perform his duties skillfully and efficiently;

(4) violated a provision of this Act or rules adopted by the board under this Act;

(5) made a material misstatement in the application for a license;

(6) obtained or attempted to obtain a license under this Act by fraud or misrepresentation;

(7) intentionally failed to comply with an order of the board;

(8) charged pilotage rates other than those approved by the board;

(9) intentionally refused to pilot or neglected to board promptly a vessel when requested to do so by the master or person responsible for navigation of the vessel except when, in the judgment of the pilot, movement of the vessel constitutes a hazard to life or property or when pilotage charges that are due and owed remain unpaid by the person ordering the pilot services;

(10) intentionally caused damage to a vessel;

(11) been absent from duty in violation of rules of the board and without authorization;

(12) aided or abetted another pilot in failing to perform his duties; or

(13) been guilty of carelessness, neglect of duty, intentional unavailability for performance of duties, refusal to perform duties, misconduct, or incompetence while on duty.

(b) The license of a pilot under this Act whose federal license as a pilot is suspended or revoked, on a finding by the board that good cause exists, shall be suspended for the same period or revoked, as the case may be.

(c) If the board determines that a license should be suspended or revoked, it shall issue a written order stating its findings and suspending the license for a specifically stated period or recommending to the governor revocation of the license.

(d) On receiving the board's order recommending revocation of a license, the governor shall revoke the license.

(e) A suspension takes effect immediately on issuance of the board's order and revocation takes effect immediately on issuance of the governor's decision.

Payment of licensed pilots

Sec. 4.13. (a) If a person who is not licensed or certified under this Act pilots a vessel in violation of this Act, that person and the consignee of the vessel are liable to a state licensed or certified pilot in that jurisdiction, on written demand, for an amount equal to the pilotage rates that would have been applicable.

(b) If suit is filed to collect the compensation owed to a pilot under Subsection (a) of this section, the court may include in any final judgment in favor of the pilot an award to cover court costs and reasonable attorney's fees.

ARTICLE 5. PILOTAGE RATES

Existing pilotage rates

Sec. 5.01. Pilotage rates in effect on the effective date of this Act remain in effect until the board adopts other pilotage rates.

Notice and hearing

Sec. 5.02. Before different pilotage rates are adopted by the board under this Act, notice shall be given and a hearing held.

Pilotage rate application

Sec. 5.03. (a) A pilot licensed or certified by the board, an association of pilots, a consignee liable under Section 6.01 of this Act to pay compensation based on pilotage rates, or an association of consignees may submit an application to the board to establish new pilotage rates for pilot services.

(b) The application must be in writing and must state specifically the changes requested.

(c) The board shall set a hearing date and may charge all or part of the costs of processing an application to the parties in the proceedings as provided in the board's final order.

(d) The applicant shall give notice of the application and the hearing date to all pilots licensed or certified in the port, all known pilots' associations, and all steamship agencies and associations in the port. The notice shall be given by certified mail to their last known addresses.

(e) New pilotage rates may not be established less than one year after the board has established pilotage rates for the port.

Financial information

Sec. 5.04. (a) At least 10 days before the date set for a pilotage rates hearing, the pilots who are licensed or certified to serve the port for which new pilotage rates are being considered shall submit in writing to the board and to any party designated by the board complete accounts of:

(1) all amounts received from performance of pilot services, organized by categories or classifications of rates, if rates are set in that manner;

(2) all earnings from capital assets devoted to providing pilot services;

(3) all expenses incurred in connection with activities for which these amounts were received and earned; and

(4) estimates of receipts and expenses anticipated to result from the requested changes in pilotage rates.

(b) The information shall be provided for the 12-month period ending immediately before the date of the application.

(c) The board may require an independent audit of financial information submitted under Subsection (a) of this section by an accountant selected by the board. The cost of the audit shall be assessed as part of the costs of the proceedings.

(d) The board may require relevant additional information it considers necessary to determine proper pilotage rates.

Factors to be considered in establishing pilotage rates

Sec. 5.05. In establishing pilotage rates, the board shall consider factors relevant to determining reasonable and just pilotage rates, including:

- (1) characteristics of vessels to be piloted;
- (2) the average number of hours spent by a pilot in the actual performance of pilot services on board vessels;
- (3) costs to pilots to provide the required pilot services;
- (4) average wages of masters of United States flag vessels that navigate the water within the jurisdiction of the board by which the pilotage rates are to be established;
- (5) compensation that is necessary to make service as a pilot competitive with serving as the officer of a United States flag vessel;
- (6) economic factors affecting the shipping industry within the area in which the port is located; and
- (7) an adequate and reasonable compensation for pilots and a fair return on the equipment and vessels that the pilots employ in connection with performance of their duties.

Pilotage rates decision

Sec. 5.06. Within 10 days after completion of its hearing on the application for new pilotage rates, the board shall issue a written decision granting or denying the application in whole or in part, setting forth its reasons for the decision, and, if new pilotage rates are authorized, stating the new pilotage rates.

Appeal of board decision

Sec. 5.07. Any party aggrieved by the decision may seek judicial review of the board's decision after all administrative remedies have been exhausted.

Emergency pilotage rates

Sec. 5.08. (a) The board may establish emergency pilotage rates, for periods not to exceed 30 days, to replace existing pilotage rates for the period of the emergency if the board finds that a natural or man-made disaster has created a substantial hazard to piloting vessels into and out of a port and that the existence of this hazard overrides the necessity to comply with normal pilotage rate-setting procedures.

(b) In adopting emergency pilotage rates, the board is not required to comply with procedures in this Act and in its rules relating to adoption of pilotage rates. Emergency pilotage rates may not be appealed.

(c) The board shall adopt rules necessary to carry out this section.

Liability

Sec. 5.09. (a) Compensation based on lawfully established pilotage rates shall be paid by the consignee liable for its payment for vessels employing pilots. If the consignee of a vessel not exempt under this Act from payment of this compensation declines the services of a pilot offered outside the bar and enters the port without the aid of a pilot, the consignee is liable to the first pilot whose services were declined for the payment of pilotage; for any vessel that, after being brought in by the pilot, goes out without employing a pilot, the consignee is liable for the payment of pilotage to the pilot who brought the vessel in. If the vessel comes in without the aid of a pilot, though offered outside, the consignee, on going out, is liable for the payment of pilotage to the pilot who first offered his services before the vessel came in. If a vessel comes in without the aid of a pilot, or the offer of a pilot outside, the consignee of the vessel, in case of going out without a pilot, is not liable for pilotage.

(b) A pilot who charges pilotage rates different from those established under this Act for the port in which he serves as a pilot is liable to each person who was charged a pilotage rate other than the lawfully authorized pilotage rate for double the amount of pilotage.

(c) If a person must file suit to collect the amount owed under this section, the court may include in any final judgment in favor of that person an award to cover court costs and reasonable attorney's fees.

ARTICLE 6. MISCELLANEOUS PROVISIONS

Consignee liable for pilot compensation

Sec. 6.01. (a) The consignee for each vessel is responsible for obtaining pilot services for the vessel under the consignee's control and for paying compensation based on pilotage rates adopted under this Act to the pilots who pilot the vessel into and out of the port area.

(b) Each pilot who lawfully offers to serve a vessel but is denied such service is entitled to recov-

er compensation based on pilotage rates adopted under this Act from the consignee in any court of competent jurisdiction.

Transition

Sec. 6.02. (a) Persons who are branch pilots serving a port covered under this Act on the effective date of this Act shall continue to serve as branch pilots until their current commissions expire, at which time each will be eligible for license renewal under the license renewal provisions of this Act, and those branch pilots shall be governed by this Act from its effective date.

(b) Persons who were appointed deputy branch pilots before the effective date of this Act shall be issued deputy branch pilot certificates by the board in whose jurisdiction they are acting as deputy branch pilots on requesting the certificate in writing and without having to comply with other procedural provisions of this Act. A certificate shall be issued for a term of two years unless the deputy branch pilot has less than two years to serve as a deputy branch pilot in which case the certificate shall be issued for the remaining time the deputy is required to serve. Deputy branch pilots in ports covered by this Act shall be governed by this Act from its effective date.

Litigation

Sec. 6.03. This Act does not apply to any matter that on the effective date of this Act is involved in litigation, and the law in effect before the adoption of this Act shall continue to apply to such litigation and shall continue in effect for that limited purpose.

Effective date

Sec. 6.04. This Act takes effect on January 1, 1982.

Other laws

Sec. 6.05. This Act does not affect the existing laws for ports in other counties of this state, including Articles 8248 through 8257 and 8264 through 8280, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1981, 67th Leg., p. 441, ch. 185, eff. Jan. 1, 1982.]

VI. GENERAL PROVISIONS

CHAPTER ELEVEN—IN GENERAL

Art.

8280-13. Flood insurance; participation in federal program by political subdivisions.

8280-14. Repealed.

Art. 8280-13. Flood insurance; participation in federal program by political subdivisions

Short title

Sec. 1. This Act may be cited as the "Flood Control and Insurance Act."

Purpose

Sec. 2. The State of Texas recognizes the personal hardships and economic distress caused by flood disasters since it has become uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions. Recognizing the burden of the nation's resources, Congress enacted the National Flood Insurance Act of 1968, Title 42, United States Code, Section 4001-4127, whereby flood insurance can be made available through coordinated efforts of the Federal Government and the private insurance industry, by pooling risks, and the positive cooperation of state and local government. The purpose of this Act is to evidence a positive interest in securing flood insurance coverage under this Federal program, and to so procure for those citizens of Texas desiring to participate; and the promoting of public interest by providing appropriate protection against the perils of flood losses and encouraging sound land use by minimizing exposure of property to flood losses.

Definitions

Sec. 3. For the purpose of this Act the term:

(a) "Board" means the Texas Water Development Board.

(b) "Political Subdivision" means any political subdivision or body politic and corporate of the State of Texas, and includes any county, river authority, conservation and reclamation district, water control and improvement district, water improvement district, water control and preservation district, fresh water supply district, irrigation district, and any type of district heretofore or hereafter created or organized or authorized to be created or organized pursuant to the provisions of Article XVI, Section 59 or Article III, Section 52 of the Constitution of the State of Texas; "political subdivision" also means any interstate compact commission to which the State of Texas is a party, municipal corporation or city whether operating under the Home Rule Amendment of the Constitution or under the General Law.

(c) "National Flood Insurance Act" means the United States Congressional Enactment, Title 42, United States Code, Sections 4001-4127, and the implementation and administration of the Act by the Secretary of the United States Department of Housing and Urban Development.

(d) "Secretary" means the Secretary of the United States Department of Housing and Urban Development.

Cooperation of Texas Water Development Board

Sec. 4. In recognition of the necessity for a coordinated effort at all levels of government, the Texas Water Development Board shall cooperate with the Federal Insurance Administrator of the United States Department of Housing and Urban Development in the planning and carrying out of state

participation in the National Flood Insurance Program; provided, however, that the responsibility for qualifying for the National Flood Insurance Program shall belong to any interested political subdivision, whether presently in existence or created in the future.

Political subdivisions; compliance with federal requirements

Sec. 5. All political subdivisions are hereby authorized to take all necessary and reasonable actions to comply with the requirements and criteria of the National Flood Insurance Program including but not limited to:

- (1) Making appropriate land use adjustments to constrict the development of land which is exposed to flood damage and minimize damage caused by flood losses;
- (2) Guiding the development of proposed future construction, where practicable, away from location which is threatened by flood hazards;
- (3) Assisting in minimizing damage caused by floods;
- (4) Authorizing and engaging in continuing studies of flood hazards in order to facilitate a constant reappraisal of the flood insurance program and its effect on land use requirements;
- (5) Engaging in flood plan management and adopting enforcing permanent land use and control measures consistent with the criteria established under the National Flood Insurance Act;
- (6) Declaring property, when such is the case, to be in violation of local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in flood-prone areas, and notifying the Secretary, or whomever he designates, of such property;
- (7) Consulting with, giving information to and entering into agreements with the Department of Housing and Urban Development for the purpose of
 - (a) Identifying and publishing information with respect to all flood areas, including coastal areas, and
 - (b) Establishing flood-risk zones in all such areas, and make estimates with respect to the rates of probable flood-caused loss for the various flood-risk zones for each of these areas;
- (8) Cooperating with the Secretary's studies and investigations with respect to the adequacy of local measures in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;
- (9) Taking steps to improve the long-range management and use of flood-prone areas;
- (10) Purchasing, leasing and receiving property from the Secretary, when such property is owned by the Federal Government and lies within the boundaries of the political subdivision, pursuant to agree-

ments with the Department of Housing and Urban Development or other appropriate legal representative of the United States Government;

- (11) Requesting aid pursuant to the entire authorization above from the Texas Water Development Board;
- (12) Satisfying criteria adopted and promulgated by the Department pursuant to the National Flood Insurance Program; and
- (13) Adopting permanent land use and control measures with enforcement provisions which are consistent with the criteria for land management and use adopted by the Secretary.

Coordination of local, state and federal programs by Texas Water Development Board

Sec. 6. (a) The Texas Water Development Board shall aid, advise and coordinate the efforts of present and future political subdivisions endeavoring to qualify for participation in the National Flood Insurance Program.

(b) Pursuant to the National Flood Insurance Program and state and local efforts complimenting¹ such Program, the Board shall aid, advise and cooperate with political subdivisions, the State Board of Insurance, and the United States Department of Housing and Urban Development when such aid, advice and cooperation are requested or deemed advisable by the Board.

(c) The aforementioned aid may include but is not necessarily limited to:

- (1) Coordinating local, state and federal programs relating to floods, flood losses, and flood plain management;
- (2) Evaluating the present structure of all federal, state, and political subdivision flood control programs, within or adjacent to the state, including an assessment of the extent to which public and private flood plain management activities have been instituted;
- (3) Carrying out studies with respect to the adequacy of present public and private measures, laws, regulations, and ordinances in flood-prone areas as to land management and use, flood control, flood zoning, and flood damage prevention;
- (4) Evaluating all available engineering, hydrologic and geologic data relevant to flood-prone areas and flood control in those areas; and
- (5) Carrying out flood plain studies and mapping programs of flood plains, flood-prone areas and flood-risk zones.

(d) On the basis of such studies and evaluations, the Board, to the extent of its capabilities, shall periodically identify and publish information and maps with respect to all flood plain areas including the states' coastal area, which have flood hazards, and where possible, aid the Federal Government in

identifying and establishing flood-risk zones in all such areas.

¹So in session laws; probably should read "complementing".

Cooperation of State Board of Insurance

Sec. 7. Pursuant to the National Flood Insurance Program, the State Board of Insurance shall aid, advise and cooperate with political subdivisions, the Texas Water Development Board and the United States Department of Housing and Urban Development when such aid, advice and cooperation are requested or deemed advisable by the State Board of Insurance.

Rules and regulations

Sec. 8. Political subdivisions which qualify for the National Flood Insurance Program, the State Board of Insurance, and the Texas Water Development Board may adopt and promulgate reasonable rules and regulations which are necessary for the orderly effectuation of the respective authorizations herein.

Sec. 9. Repealed by Acts 1977, 65th Leg., 1st C.S., p. 58, ch. 4, § 4, eff. Sept. 1, 1977.

[Acts 1969, 61st Leg., p. 2313, ch. 782, eff. Sept. 1, 1969. Amended by Acts 1977, 65th Leg., 1st C.S., p. 58, ch. 4, § 4, eff. Sept. 1, 1977.]

Repeal

This article was probably impliedly repealed by Acts 1977, 65th Leg., p. 2207, ch. 870, which revised Title 2 of the Water Code. See, now, Water Code, § 16.311 et seq.

Art. 8280-14. Repealed by Acts 1983, 68th Leg., p. 1035, ch. 235, art. 6, § 1(b), eff. Sept. 1, 1983

See, now, Parks and Wildlife Code, § 25.001 et seq.

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TABLE I

ALPHABETICAL TABLE OF SPECIAL LAWS PERTAINING TO WATER

Certain laws appearing in the Civil Statutes, classified to Title 128, Water, have not been repealed and are not carried into the Water Code. They have been dropped from West's Texas Statutes and Codes as special laws.

The tabulation below lists these special laws alphabetically by subject matter, showing the former Civil Statutes classification and the original and amendatory citations to the General and Special Laws of Texas.

For numerical tabulation of these laws, see Table IV.

For the text of these special laws, see the General and Special Laws of Texas.

Subject Matter	Civ.St.Art.	Laws Citations
Abandoned beds and channels, relinquishment of state title		
Counties of 40,000 or more	7467a	1925, ch. 155
Counties over 350,000	7467b	1949, ch. 372
Cameron and Willacy Counties, overflows	7880—148	
	to	
	7880—153	1925, ch. 35, §§ 1 to 6
Conservation and reclamation districts		
Abolition of drainage districts having flood control or conservation and reclamation district	8193—1	1945, ch. 143
Annexation of territory, conversion from drainage district wholly in one county	8176b	1955, ch. 315
Contracts with U.S.: Districts in Hidalgo, Willacy and Cameron Counties converted from drainage district	8196 note	1963, ch. 236
Validation of creation, bonds, etc.	8197a	1929, ch. 139
	8197d	1932, 3rd C.S., ch. 19
	8197d—1	1971, ch. 750
		1977, ch. 727
Control and improvement districts		
Borrowing from federal agencies, taxes and bonds authorized	7880—147u	1934, 2nd C.S., ch. 4 1936, 3rd C.S., ch. 501
Boundaries coterminous with city, selection of directors, validation of proceedings	7880—20a	1955, ch. 260
Counties of 5,000 to 13,000	7880—147z	1934, 3rd C.S., ch. 12 1947, ch. 77
Directors, appointment or election		
Cities in counties of 900,000 to 1,000,000	7880—20b	1969, ch. 832
District containing over 80,000 acres		
within 2 or more counties	7880—38a	1939, Spec.L., p. 1105 1955, ch. 48 1965, ch. 318
District containing under 12,000 acres	7880—146	1925, ch. 25, § 146
Exclusion of land		
City of 13,305 to 14,310	8280—2	1949, ch. 37
Districts with 81,000 to 82,100 acres	8280—4	1949, ch. 505
Urban property	8280—3	1949, ch. 336
	8280—3.2	1971, ch. 86
Urban property and unirrigated lands over 30,000 acres	7880—76c	1941, ch. 119 1951, ch. 114

TABLES OF SPECIAL WATER LAWS

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Subject Matter	Civ.St.Art.	Laws Citations
		1951, ch. 381 1961, ch. 494
Refunding bonds, cities of 40,000 to 100,- 000	7880-147x	1932, 4th C.S., ch. 3, § 1
	7880-147y	1932, 4th C.S., ch. 3, § 2
Validation acts		
Addition of land	7880-75c	1949, ch. 285
Bonds	7807h	1935, 2nd C.S., ch. 477
	7880-90c	1947, ch. 382, § 2
	7880-147e8	1951, ch. 127
	7880-147c10	1957, ch. 310, § 2
	7880-147w	1935, 1st C.S., ch. 372
Conversion from improvement district	7807g	1934, 3rd C.S., ch. 59
Counties of 3,750 to 3,800	7880-147w(1)	1939, Spec.L., p. 1039
Counties of 48,500 to 48,600	7807j	1937, ch. 432
Counties of 250,000 to 310,000	7880-147a(1)	1939, Spec.L., p. 1038
Counties over 800,000	7880-147c9	1955, ch. 469
District containing not over 3,500 acres	7880-147c7	1939, Spec.L., p. 1041
Exclusion and annexation of land	7880-147c11	1965, ch. 434
Organization, proceedings, etc.	7880-147c10	1957, ch. 310, § 2
	7880-147w	1935, 1st C.S., ch. 372
District wholly within incorporated city: tax- es, bonds, abolition, validation	8280-10	1961, ch. 193 1961, 1st C.S., ch. 3 1963, ch. 176
Drainage districts		
Abolition of districts in counties having flood control or conservation and reclama- tion district	8193-1	1945, ch. 143
Acquisition and sale of land, validation	8152a	1951, ch. 286
Annexation of territory		
Conversion into conservation and reclama- tion district wholly in one county	8176b	1955, ch. 315
District not converted into conservation and reclamation district wholly in one county	8176b-1	1957, ch. 345
District not converted into conservation and reclamation district wholly in one county over 175,000	8176b-2	1959, ch. 403
Commissioners		
Compensation, counties of 90,000 to 150,- 000	8120a	1949, ch. 254
Election, counties of 75,000 to 90,000	8119a	1967, ch. 584
Powers, compensation, etc., counties of 160,000 to 170,000	8161d	1949, ch. 201 1971, ch. 590 1981, ch. 237, § 133
Powers, compensation, etc., counties of 150,000 to 350,000	8161b	1947, ch. 437 1961, ch. 482 1975, ch. 453
Consolidation of contiguous districts wholly in one county over 175,000	8176d	1959, ch. 402
Contracts with U.S.: Districts in Hildago, Willacy and Cameron Counties convert- ed into conservation and reclamation districts	8196 note	1963, ch. 236
Exclusion of land		
City of 13,305 to 14,310	8280-2	1949, ch. 37
City of 20,000 or more	8280-6	1953, ch. 390
Control and preservation districts	7880a	1939, p. 705 1983, ch. 235, art. 8
Districts with 81,000 to 82,100 acres	8280-4	1949, ch. 505
Urban property	8280-3	1949, ch. 336
	8280-3.2	1971, ch. 86
	8280-3.5	1959, ch. 62
Flood control		
Cooperation of counties on Mexico border with U.S.	7880-147v	1934, 4th C.S., ch. 29

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Subject Matter	Civ.St.Art.	Laws Citations
Exclusion of land—Continued		
Lower Rio Grande Flood Control Project, easements	7880—147v(1)	1937, ch. 202
Fresh water supply districts		
Exclusion of land, counties of 3,000 to 20,000	7930—1	1935, 2nd C.S., ch. 475
Validation acts		
Bonds and organization	7941b	1951, ch. 81
Formation of district	7887a	1927, 1st C.S., ch. 58, § 3
Numerical re-designation	7893a	1951, ch. 427
Improvement districts		
District obtaining water supply from United States		
Refunding bonds for retirement of amortization bonds	7700c	1945, ch. 350
Validating refunding bonds	7700b	1934, 2nd C.S., ch. 50
Districts organized for cooperation under Federal Reclamation Laws		
Including lands within existing district	7622a	1927, ch. 247
Organization, powers, etc.	7807d	1933, ch. 76 1933, 1st C.S., ch. 19, § 1
Validation, borrowing money from federal government	7807dd	1933, 1st C.S., ch. 19, §§ 2 to 7
Validation, organization and bonds	7807k	1937, 1st C.S., ch. 15
Districts under contract with Dept. of Interior		
Division of district, election of directors, boundaries	7641—a, b	1939, Spec.L., p. 1103, §§ 1, 2 1941, ch. 536 1961, ch. 429
Employment of manager, tax assessor and collector, etc.	7652b	1955, ch. 79
Penalty for delinquent tax payment	7684—b	1939, Spec.L., p. 1103, § 3
Districts under contract with United States		
Acquisition, sale, lease, etc. of electric plants	7794a	1925, ch. 123, § 1
Cooperation with districts of other states	7794b	1925, ch. 123, § 2
Exclusion of land		
City of 13,305 to 14,310	8280—2	1949, ch. 37
Counties of 1034 to 1036 square miles	7775c	1930, 5th C.S., ch. 57
Districts with 81,000 to 82,100 acres	8280—4	1949, ch. 505
Urban property, 1,800 to 2,500 acres	8280—3.5	1959, ch. 62
Funding, districts not over 12,000 acres	7807b	1933, ch. 25
Refunding bonds, cities of 40,000 to 100,000	7880—147x 7880—147y	1932, 4th C.S., ch. 3, § 1 1932, 4th C.S., ch. 3, § 2
Tax authority, districts of 10,000 to 15,000 acres	7807i	1937, ch. 294
Validation acts		
Bonds	7807h	1935, 2nd C.S., ch. 477
Composition of indebtedness plan	7807u	1949, ch. 332
Conversion into control and improvement district	7807g	1934, 3rd C.S., ch. 59
Counties of 48,500 to 48,600	7807j	1937, ch. 432
Counties of 250,000 to 300,000	7807l	1939, Spec.L., p. 1043
Navigation districts		
District containing city of 27,000 to 28,000	8263c	1931, Spec.L., ch. 89 1933, 1st C.S., ch. 78
District containing city of 300,000 or more		
Eminent domain powers	8263k	1949, ch. 217
Retirement, death and disability fund	8263j	1949, ch. 216
District containing city of 375,000 or more	8235a	1945, ch. 90 1947, ch. 242 1955, ch. 211 1957, ch. 71 1977, ch. 299, § 4

TABLES OF SPECIAL WATER LAWS

Subject Matter	Civ.St.Art.	Laws Citations
Navigation districts—Continued		
Districts bordering Mexico, use of public lands and waters, conveyances to U.S.	8263i	1947, ch. 163 1953, ch. 139
Exchange or sale of land by district containing city of 375,000 or more	8247f	1955, ch. 176
Lease of land to U.S. by district containing city of 100,000 or more	8247c	1941, ch. 6
Validation acts		
Converted districts	8263b	1931, ch. 365 1931, Spec.L., ch. 238
Districts created by commissioners court	8263f	1933, 1st C.S., ch. 81
Districts engaged in operation of ports and port facilities	8263f-1	1951, ch. 11
Refunding bonds	7807c	1933, ch. 93
Cities of 40,000 to 100,000	7880-147x	1932, 4th C.S., ch. 3, § 1
	7880-147y	1932, 4th C.S., ch. 3, § 2
Validating proceedings	7807c-1	1935, ch. 336
State agencies, regulation to carry out purposes of Const. art. 16, § 59	8197e-1	1943, ch. 366
Water development bonds		
Authorization	8280-9a	1965, ch. 221
Further authorization	8280-9a.1	1971, ch. 1011
Water supply districts	7807f	1933, ch. 121
Willacy and Cameron Counties, overflow	7880-148	
	to	
	7880-153	1925, ch. 35, §§ 1 to 6

TABLE II
ALPHABETICAL TABLE OF PARTICULAR
WATER DISTRICTS

Certain laws relating to particular water districts, many of which appeared as notes under various articles of the Civil Statutes, Title 128, Water, have not been repealed and are not carried into the Water Code.

The tabulation below lists these acts, grouped alphabetically by district name under the particular type of district involved. Unless noted to the contrary, the act is one validating the creation and/or organization of the district.

For the text of these special laws, see the General and Special Laws of Texas.

Name of District	Laws Citations
Control and Improvement Districts	
Atascosa County No. 1	1949, ch. 142
Austin County No. 2	1957, ch. 99
Bell County	
No. 1, boundaries, powers, validation	1955, ch. 523
No. 5	
Eminent domain	1959, ch. 227
Validation	1959, ch. 226
Bertram County No. 1, name change	1961, ch. 464
Bexar County	
No.13, boundaries	1957, ch. 135
No. 16	1959, ch. 197
Brazoria County No. 3	1961, 1st C.S., ch. 46
Brazos County No. 1	
Creation and organization, validation	1959, 1st C.S., ch. 10
Directors, powers and duties	1965, ch. 529
Brushy Creek No. 1	1957, ch. 341
	1957, 2nd C.S., ch. 10
Burnet County No. 1, name change	1961, ch. 464
Calhoun County No. 1	1959, ch. 472
Cameron County	
No. 3 (La Feria)	1929, ch. 67
No. 4 (Santa Maria)	1929, ch. 249
No. 5	
Conversion	1927, 1st C.S., ch. 20
Validation of bonds	1927, ch. 170
No. 6, conversion	1927, 1st C.S., ch. 19
No. 7, conversion	1927, 1st C.S., ch. 18
No. 9	1929, ch. 70
No. 18	1931, Spec.L., ch. 19
No. 19	1933, Spec.L., ch. 97
	1935, ch. 347
Coleman County No. 1	1961, ch. 128
Collingsworth County No. 1	1959, ch. 479
Colorado County No. 2	1959, ch. 237
Concho County No. 2, additional powers	1959, 1st C.S., ch. 11
Dallas County No. 6, annexation validation	1961, ch. 432
Donley County No. 1	
Conveyance of properties	1959, ch. 346
Directors, selection	1961, ch. 172
Validation	1959, ch. 424
	1965, ch. 189
East Keechi Creek	1959, 1st C.S., ch. 13
El Paso County	
No. 4	1955, ch. 58
	1955, ch. 491

TABLES OF SPECIAL WATER LAWS

Name of District	Laws Citations
Control and Improvement Districts—Continued	
Westway	1962, 3rd C.S., ch. 67
Fannin County	
No. 1	1961, ch. 65
	1963, ch. 275
No. 2	1957, ch. 259
No. 3	1961, ch. 271
Fort Bend County	
No. 2	
Boundary enlargement	1961, ch. 312
Validation	1969, ch. 381
No. 4, addition of land	1967, ch. 641
Fort Hancock of Hudspeth County	1961, ch. 78
Guadalupe County No. 1	1971, ch. 96
Hall and Donley Counties No. 1	1959, ch. 424
	1965, ch. 189
Harris County	
No. 56, bond election validation	1969, ch. 169
No. 65, abolition and dissolution	1965, ch. 341
No. 69, bond election validation	1969, ch. 47
No. 71	1969, ch. 816
No. 81	1969, ch. 627
No. 83, addition of land	1967, ch. 632
No. 87	1965, ch. 388
No. 89	1965, ch. 390
No. 91, addition of territory	1967, ch. 404
No. 97	
Creation and validation	1967, ch. 650
Dissolution	1971, ch. 651
No. 129	1971, ch. 660
No. 140	1971, ch. 649
Hidalgo and Willacy Counties No. 1, name change	1955, ch. 40
Hidalgo County	
No. 1	1929, ch. 200
	1931, 1st C.S., ch. 11
No. 2, land exclusion	1961, ch. 367
No. 6	1929, ch. 68
No. 7	
Bond validation	1935, ch. 323
Creation and validation	1929, ch. 94
No. 9	
Bond validation	1930, 4th C.S., Spec.L., ch. 11
Creation and validation	1929, ch. 70
No. 14, land detachment	1953, ch. 4
Houston County No. 1	
Bond issue	1965, ch. 525
Territory, powers	1961, ch. 151
Hudspeth County No. 1	1959, ch. 299
Kent Creek No. 1	1959, ch. 476
Lake Fork No. 1, assessments	1959, ch. 51
Lamar County, assessments and validation	
No. 1	1959, ch. 167
No. 3	1959, ch. 168
Liberty County No. 5	
Creation and organization, validation	1962, 3rd C.S., ch. 66
Election of directors	1963, ch. 73
	1969, ch. 857
Lubbock County No. 1, election of directors	1983, ch. 300
Matagorda County	
No. 1	1950, 1st C.S., ch. 40
No. 6	1961, ch. 195
Maverick County No. 1	
Bond validation	1949, ch. 300
Creation and validation	1930, 4th C.S., Spec.L., ch. 3
Exclusion of territory	1971, ch. 600
Surplus water	1981, ch. 35
McLennan and Hill Counties, Tehuacana Creek No. 1	1961, ch. 55
Menard County No. 1	1957, 1st C.S., ch. 31

TABLE II

Name of District	Laws Citations
Control and Improvement Districts—Continued	
Mills County No. 1, additional powers	1959, ch. 477
North Bosque, assessments	1959, 2nd C.S., ch. 22
Nueces County No. 4	1961, ch. 75
Orange County	
No. 1	1965, ch. 316
No. 3	1955, ch. 253
Pecos County No. 2	1959, 1st C.S., ch. 16
Red River County No. 1	1965, ch. 90
San Gabriel River No. 1	
Directors	1961, ch. 464, § 2
Maintenance tax, validation	1957, 2nd C.S., ch. 30
Starr County No. 1	1929, ch. 80
Tarfor County No. 1	1957, ch. 268
Tarrant County No. 1, annexation	1959, 2nd C.S., ch. 35
Tom Green County No. 1, boundaries, detachment, annexation	1959, ch. 171 1961, ch. 448 1981, ch. 474
Travis County	1959, ch. 345
Ward County No. 4	1957, 1st C.S., ch. 15
Wichita County No. 1, boundary extension	1959, ch. 126
Willacy County No. 1	
Creation and organization, validation	1929, ch. 166
Name change	1955, ch. 40
Williamson County No. 1	1959, 3rd C.S., ch. 11
Wise County No. 1	1962, 3rd C.S., ch. 58
Yellow House Canyon	1965, ch. 294
Drainage Districts	
Brazoria County	
Angleton	
Creation and organization, validation	1930, 4th C.S., Spec.L., ch. 9
Re-creation	1962, 3rd C.S., ch. 43 1967, ch. 226
No. 2 (Velasco)	
Conveyance	1959, ch. 347
Creation and organization, validation	1930, 4th C.S., Spec.L., ch. 8
Organization, operation and funding	1975, ch. 577
Re-creation	1962, 3rd C.S., ch. 44
No. 3	
Creation and organization, validation	1929, 1st C.S., ch. 6
Re-creation	1969, ch. 307 1979, ch. 420 1981, ch. 98
Dissolution	1981, 1st C.S., ch. 8
No. 4	
Creation	1929, 1st C.S., ch. 7 1975, ch. 168 1975, ch. 173
Dissolution	1981, 1st C.S., ch. 8
No. 5	
Creation	1929, 1st C.S., ch. 36 1979, ch. 498
Dissolution	1981, 1st C.S., ch. 8
No. 6	1930, 4th C.S., Spec.L., ch. 7
No. 8	
Creation	1930, 4th C.S., Spec.L. ch. 6 1979, ch. 498
Dissolution	1981, 1st C.S., ch. 8
No. 9	1929, 1st C.S., ch. 8
No. 10 (San Bernard)	1930, 4th C.S., Spec.L., ch. 10
West Brazoria	1969, ch. 48 1981, 1st C.S., ch. 6
Calhoun County	
No. 10, enlargement	1959, ch. 474
No. 11	1961, ch. 339

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Name of District	Laws Citations
Drainage Districts—Continued	
Cameron County	
No. 1.....	1929, ch. 145
No. 2.....	1929, ch. 146
No. 3 (San Benito).....	1929, ch. 45
No. 4.....	1929, ch. 46
De Witt County No. 1	
Annexation.....	1971, ch. 80
Compensation of commissioners.....	1979, ch. 431
Ellis County No. 1, directors, validation.....	1979, ch. 818
Grandfalls, merger into Ward County Water Improvement	
District No. 2.....	1977, ch. 122
Harris County No. 14.....	1939, Spec.L., p. 1037
Hidalgo County No. 1	
Bonds and taxes, election.....	1983, ch. 147
Use of bonds.....	1977, ch. 213
Jackson County	
No. 1.....	1931, Spec.L., ch. 31
No. 2.....	1931, Spec.L., ch. 25
No. 3.....	1931, Spec.L., ch. 27
No. 4.....	1931, Spec.L., ch. 26
No. 5.....	1931, Spec.L., ch. 24
No. 8	
Creation and organization, validation.....	1931, Spec.L., ch. 23
Enlargement.....	1951, ch. 61
Jefferson County, enlargement, powers	
No. 6.....	1961, ch. 349
	1967, ch. 137
	1969, ch. 277
	1981, ch. 666
	1983, ch. 686
No. 7.....	1962, 3rd C.S., ch. 34
	1965, ch. 7
	1971, ch. 182
	1973, ch. 372
	1977, ch. 614
Liberty County	
No. 2.....	1930, 4th C.S., Spec.L., ch. 3
Old River No. 1.....	1930, 4th C.S., Spec.L., ch. 4
Refugio County No. 1, compensation and expenses of	
commissioners.....	1977, ch. 708
Velasco	
Organization, operation and funding.....	1975, ch. 577
Re-creation.....	1962, 3rd C.S., ch. 44
West Brazoria County.....	1969, ch. 48
Fresh Water Supply Districts	
Cameron County No. 1 of Port Isabel, supervisors and tax	
assessor-collector.....	1965, ch. 538
	1967, ch. 79
Collin County No. 1.....	1967, ch. 627
Dallas County	
Beverly Hills.....	1929, ch. 212
No. 7.....	1926, 1st C.S., Spec.L., ch. 57
No. 9.....	1929, ch. 213
Preston Road No. 10.....	1931, Spec.L., ch. 220
Harris County No. 61, powers.....	1971, ch. 810
	1981, ch. 483
Montgomery County No. 2.....	1969, ch. 51
Nueces County No. 1, dissolution.....	1975, ch. 224
Panola County No. 1, election of supervisors.....	1977, ch. 263
Polk County No. 1 (Oak Terrace Estates).....	1973, ch. 520
Titus County No. 1.....	1967, ch. 221
	1969, ch. 843
	1971, ch. 197

TABLE II

Name of District	Laws Citations
Improvement Districts	
Bexar-Medina-Atascosa Counties No. 1, exclusion of land	1973, ch. 605
Brown County No. 1	
Delinquent tax collection	1963, ch. 62
Retirement, disability and death fund	1969, ch. 12
Cameron County	
No. 8	1931, Spec.L., ch. 20
No. 10	1929, 1st C.S., ch. 110
No. 11	1929, 1st C.S., ch. 111
No. 12	1929, 1st C.S., ch. 112
Hidalgo County	
No. 5	1929, ch. 8
No. 6	1930, 4th C.S., Spec.L., ch. 21
LaSalle County No. 1	1929, ch. 66
Liberty County No. 1, conversion and validation	1930, 4th C.S., Spec.L., ch. 5
Logan-Slough Creek	1965, ch. 541
Nueces County No. 1	1929, 2nd C.S., Spec.L., ch. 14
Ward County No. 2, merger of Grandfalls Drainage District	1977, ch. 122
Levee Improvement Districts	
Dallas County	
No. 5	1969, ch. 787
No. 14	1937, ch. 306
No. 16, validation and reorganization	1975, ch. 201
Lamar—Delta County No. 2	1927, 1st C.S., ch. 6
Municipal Utility Districts	
Brazos County No. 1, creation and organization, validation	1975, ch. 252
Dallas County No. 1, name change	1983, ch. 628
Dallas County Utility and Reclamation District, name change	1983, ch. 628
Forest Cove, boundaries and elections, validation	1983, ch. 670
Meadowlakes	
Contracts, exclusion of territory, validation	1983, ch. 1038
Order, exclusion of territory, validation	1983, ch. 808
Northwest Harris County No. 7, dissolution	1983, ch. 701
Navigation Districts	
Aransas County No. 1, conversion	1949, ch. 213
Arroyo-Colorado, name change	1983, ch. 21
Brazos River Harbor	1927, 1st C.S., ch. 55
	1959, ch. 342
	1979, ch. 433
	1981, ch. 363
	1981, ch. 364
Brownsville of Cameron County	1929, ch. 192
	1931, Spec.L., ch. 3
Galveston County No. 1	1955, ch. 46
Harris County Houston Ship Channel	
Creation and organization, validation	1927, 1st C.S., ch. 97
Islands and lands granted by state	1927, ch. 292
Powers	1957, ch. 117
	1961, ch. 186
Matagorda County No. 2	
Additional powers	1967, ch. 405
Name change	1973, ch. 17
Nueces County No. 1	
Commissioners	1973, ch. 366
Name change	1981, ch. 165
Port of Bay City Authority of Matagorda County, name change	1973, ch. 17
Port of Corpus Christi Authority of Nueces County	
Membership	1983, ch. 397
Name change	1981, ch. 165
Port of Harlingen Authority, name change	1983, ch. 21
Refugio County	1967, ch. 132

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Name of District	Laws Citations
Navigation Districts—Continued	
West Side Calhoun, sale of facilities to Guadalupe-Blanco River authority	1963, ch. 45
Willacy County	
Additional powers	1953, ch. 404 1959, ch. 392 1967, ch. 654
Lease, sale, easements of lands	1957, ch. 141 1959, ch. 449
Validation	1955, ch. 135
Underground Water Conservation Districts	
Dallam County No. 1	1959, ch. 91
High Plains No. 1	
Creation and validation	1953, ch. 10
Tax assessor-collector	1969, ch. 43

TABLE III
ALPHABETICAL TABLE OF DISTRICTS CREATED
AND/OR VALIDATED PURSUANT TO
CONST. ART. 16, § 59

Pursuant to Const. Art. 16, § 59, a number of water districts were created and/or validated by legislative act, many of which were classified to Title 128, Water, of the Civil Statutes. They have not been repealed and are not carried into the Water Code. They have been dropped from West's Texas Statutes and Codes as special laws.

The tabulation below lists these particular districts in alphabetical order, showing the former Civil Statutes classification, where applicable, and the original and amendatory citations to the General and Special Laws of Texas.

For numerical tabulation of these laws, see Table IV.

For text of these special laws, see the General and Special Laws of Texas.

Name of District	Civ.St.Art.	Laws Citations
Acres Homes Improvement District	8280—329	1965, ch. 617
Addicks Utility District	8280—548	1971, ch. 661
Aldine Public Utility District	8280—561	1971, ch. 674
Alice Water Authority	8280—270	1962, 3rd C.S., ch. 12 1981, ch. 661
Alvarado Water Authority		1975, ch. 437
Amigoiland Utility District	8280—471	1969, ch. 810
Angelina and Neches River Authority	8280—108	1935, ch. 97 1939, Spec.L., p. 1080 1945, ch. 287 1977, ch. 394
Angleton Municipal Utility District	8280—261	1961, ch. 483
Anna—Van Alstyne Water District		1973, ch. 602 1977, ch. 691
Aquilla Water Supply District		1977, ch. 713
Aquilla-Hackberry Creek Conservation District	8280—222	1959, ch. 183 1983, ch. 643
Aransas County Conservation and Reclamation District	8280—296	1963, ch. 337 1971, ch. 582 1979, ch. 271
Argyle Municipal Utility District		1983, ch. 720
Arroyo Estates Utility District	8280—450	1969, ch. 594
Atascosa and Frio Counties Improvement District No. 1	8280—175	1955, ch. 373
Athens Municipal Water Authority	8280—196	1957, ch. 142 1961, ch. 157
Attoyac Bayou Watershed Authority	8280—220	1959, ch. 154
Bacliff Municipal Utility District of Galveston County	8280—286	1963, ch. 244
Bammel Utility District	8280—438	1969, ch. 357
Bandera County River Authority	8280—526	1971, ch. 629
Bay Ridge Utility District	8280—460	1969, ch. 694
Bayfield Public Utility District	8280—532	1971, ch. 641
Bayou Vista Municipal Utility District	8280—343	1967, ch. 569
Bayshore Municipal Utility District	8280—268	1961, ch. 50
Baytown Area Water Authority		1973, ch. 600 1981, ch. 649
Baytown Levee District	8280—393	1969, ch. 86
Bayview Municipal Utility District of Galveston County	8280—287	1963, ch. 245 1971, ch. 186

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Name of District	Civ.St.Art.	Laws Citations
Bear Creek Utility District	8280-543	1971, ch. 655
Beason-Cedar Creek Watershed Authority	8280-240	1959, ch. 503
Beaumont Place Utility District	8280-517	1971, ch. 578
Beeville Water Supply District		1979, ch. 432
Bell County Improvement District	8280-227	1959, ch. 262
Bell County Water Control and Improvement District		1959, 3rd C.S., ch. 12
No. 1	8280-189	1955, ch. 523 1977, ch. 723 1983, ch. 1052
No. 3	8280-182	1955, ch. 506 1979, ch. 441 1983, ch. 1051
No. 4	8280-183	1955, ch. 507
No. 6	8280-211	1957, 1st C.S., ch. 18 1961, ch. 300 1983, ch. 1056
Belleau Wood East Utility District	8280-435	1969, ch. 351
Bellfort Public Utility District	8280-478	1971, ch. 169
Beltway Municipal Utility District	8280-505	1971, ch. 476
Benbrook Sewer and Water Authority	8280-163	1955, ch. 123 1965, ch. 15 1969, ch. 593 1977, ch. 720
Bender Road Improvement District	8280-332	1965, ch. 620 1967, ch. 114 1969, ch. 580
Bevil Oaks Municipal Utility District		1973, ch. 621
Bexar County Metropolitan Water District	8280-126	1945, ch. 306 1953, ch. 66 1957, ch. 40
Bexar County Water Control and Improvement District		
Lackland	8280-224	1959, ch. 199
Northwest	8280-225	1959, ch. 200
Oak Hills	8280-223	1959, ch. 198
Bilma Public Utility District	8280-512	1971, ch. 559
Bistone Municipal Water Supply District	8280-206	1957, ch. 368 1959, ch. 258 1961, ch. 258 1981, ch. 234
Blue Ridge Municipal Utility District Creation, powers, etc.	8280-365	1967, ch. 612 1969, ch. 392, § 5 1971, ch. 166
Validation	8280-365	note 1969, ch. 392, §§ 1 to 4
Blue Ridge West Municipal Utility District	8280-379	1967, ch. 633
Blue Water Municipal Utility District	8280-312	1965, ch. 531
Bois D'Arc Municipal Utility District		1979, ch. 421
Boling Municipal Water District	8280-172	1955, ch. 286 1957, ch. 143
Booker Public Utility District	8280-484	1971, ch. 253
Boone Road Utility District	8280-427	1969, ch. 303
Bordersville Improvement District	8280-334	1965, ch. 622 1967, ch. 102 1969, ch. 266
Bowie County Water Supply District	8280-245	1961, ch. 114
Bowie Water Supply District		1979, ch. 288
Braeburn West Utility District	8280-338	1965, ch. 648 1967, ch. 652 1969, ch. 592
Braes Utility District	8280-431	1969, ch. 309
Brazoria County Conservation and Reclamation District No. 3		
Recreation, powers, etc.	8280-476	1969, ch. 307 1979, ch. 420 1981, ch. 98
Dissolution		1981, 1st C.S., ch. 8

TABLE III

Name of District	Civ.St.Art.	Laws Citations
Brazoria County Water Control and Improvement District		
Brushy Meadows [repealed]	8280—275	1962, 3rd C.S., ch. 52 1963, ch. 20
Lake Alaska [repealed]	8280—274	1962, 3rd C.S., ch. 46 1963, ch. 79
Brazoria County Watershed Drainage Districts Nos. 3, 4, and 5		1981, 1st C.S., ch. 8
Brazos River Authority		
Creation, powers, etc.	8280—101	1929, 2nd C.S., ch. 13 1931, 1st C.S., ch. 5 1935, ch. 19 1935, 1st C.S., ch. 368, § 14 1953, ch. 194, §§ 1, 2 1973, ch. 240
Donation of taxes; bonds, etc.	8280—101 note	1934, 4th C.S., ch. 3 1935, 1st C.S., ch. 368 1953, ch. 194, §§ 3 to 5 1975, ch. 152
Briar Ridge Municipal Utility District	8280—383	1967, ch. 637
Briarwick Improvement District	8280—331	1965, ch. 619 1967, ch. 141 1969, ch. 265
Brookshire-Katy Drainage District	8280—249	1961, ch. 203 1967, ch. 220
Brookshire Municipal Water District	8280—146	1951, ch. 418 1963, ch. 186
Broussard Sewage District		1983, ch. 710
Brown County Water Control and Improvement District—Holiday Hills	8280—255	1961, ch. 363
Buffalo Camp Farms Public Utility District	8280—575	1971, ch. 688
Buffalo Lake Water District		1983, ch. 217
Burleson County Municipal Utility District No. 1	8280—587	1971, ch. 703
Burleson County Water Control and Improvement District No. 1	8280—457	1969, ch. 636
Burlington Colony Municipal Utility District	8280—418	1969, ch. 256
Butterfield Water Control and Improvement District	8280—289	1963, ch. 256
Calhoun County Navigation District	8198 note	1953, ch. 195 1957, ch. 291 1965, ch. 524 1977, ch. 701
Canadian River Municipal Water Authority	8280—154	1953, ch. 243 1955, ch. 196 1957, ch. 204 1961, ch. 67 1969, ch. 63 1981, ch. 42
Candlewood Utility District	8280—429	1969, ch. 305
Cape Royale Utility District	8280—424	1969, ch. 270
Cardinal Meadows Improvement District	8280—301	1965, ch. 335
Casa Manana Utility District	8280—468	1969, ch. 753
Castleman Creek Watershed Association		
Creation, powers, etc.	8280—260	1961, ch. 441
Validation	8280—260 note	1965, ch. 635
Cedar Bayou Municipal Utility District	8280—520	1971, ch. 603
Cedar Bayou Park Utility District	8280—422	1969, ch. 261
Central Colorado River Authority	8280—111	1935, ch. 338 1937, ch. 341 1939, Spec.L., p. 1045 1941, ch. 69 1983, ch. 484, art. IV

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Name of District	Civ.St.Art.	Laws Citations
Chantilly Oaks Municipal Utility District	8280-267	1961, 1st C.S., ch. 33
Chaparral Municipal Utility District	8280-364	1967, ch. 610
Cherry Hill Municipal Utility District	8280-425	1969, ch. 300
Chimney Rock Municipal Utility District	8280-439	1969, ch. 384
Choctaw Watershed Water Improvement District	8280-217	1959, ch. 33 1959, ch. 177
Cibolo Creek Municipal Authority	8280-487	1971, ch. 347 1977, ch. 44 1983, ch. 31
City of Bonham Water Authority	8280-231	1959, ch. 333
City of Cities Municipal Utility District		
Creation, powers, etc.	8280-380	1967, ch. 634
Validation	8194 note	1971, ch. 66
City of Hillsboro Water and Sewer Authority	8280-282	1963, ch. 234
City of McAllen Water and Sewer Authority	8280-177	1955, ch. 400 1961, 1st C.S., ch. 49 1965, ch. 187
Clear Creek Basin Authority	8280-311	1965, ch. 528 1969, ch. 264
Clear Creek Drainage District of Galveston County	8280-285	1963 ch. 243 1979 ch. 34
Clear Creek Watershed Authority	8280-234	1959, ch. 372 1983, ch. 449
Clear Lake City Water Authority	8280-280	1963, ch. 101 1973, ch. 164 1977, ch. 786
Clear Woods Improvement District	8280-324	1965, ch. 604 1967, ch. 171 1969, ch. 268
CNP Utility District	8280-466	1969, ch. 751
Coastal Industrial Water Authority	8280-355	1967, ch. 601 1969, ch. 767 1983, ch. 706
Coke County Kickapoo Water Control and Improvement District No. 1	8280-241	1959, 1st C.S., ch. 17
College View Municipal Utility District	8280-381	1967, ch. 635
Collin County Water Control and Improvement District No. 2	8280-210	1957, 1st C.S., ch. 16
Collin-Denton County Water and Sanitation District	8280-400	1969, ch. 142
Colonia-Chaparral Municipal Utility District	8280-386	1967, ch. 642
Colony Hills Public Utility District	8280-541	1971, ch. 653
Colorado County Flood Control District	8280-129	1941, ch. 361, art. IV 1947, ch. 184
Colorado County Water Control and Improvement District No. 1	8280-170	1955, ch. 283
Colorado River Municipal Water District	8280-137	1949, ch. 340 1961, 1st C.S., ch. 4 1981, ch. 621
Comal County Water Recreational District No. 1	8280-117	1937, ch. 57
Comanche Hills Utility District	8280-316a	1967, ch. 624 1983, ch. 1050
Commerce Water District		1973, ch. 84 1965, ch. 598
Commodore Cove Improvement District	8280-322	1967, ch. 624
Concord Public Utility District	8280-495	1971, ch. 429
Corinthian Point Utility District	8280-531	1971, ch. 636
Coryell City Water Supply District		1979, ch. 435
Court Road Municipal Utility District	8280-420	1969, ch. 258
Crescent Shores Municipal Utility District	8280-371	1967, ch. 618
Crosby Municipal Utility District		
Creation, powers, etc.	8280-315	1965, ch. 554
Validation		1973, ch. 565
Cy-Champ Public Utility District	8280-573	1971, ch. 686
Cypress Creek Utility District	8280-403	1969, ch. 146
Cypress Forest Public Utility District	8280-479	1971, ch. 195
Cypress-Klein Utility District	8280-542	1971, ch. 654

TABLE III

Name of District	Civ.St.Art.	Laws Citations
Cypress Valley Navigation District	8280—340	1965, ch. 715
Cypresswood Utility District	8280—515	1971, ch. 576
Dalby Springs Conservation District	8280—281	1963, ch. 140 1965, ch. 623 1969, ch. 396
Dallas County Flood Control District		
Creation, powers, etc.	8280—127	1945, ch. 355 1951, ch. 50
Validation of acts	8280—127	note 1969, ch. 787
Dallas County Flood Control District No. 1		1983, ch. 1081
Dallas County Park Cities Water Control and Improvement District No. 2	8280—132	1947, ch. 456
Dallas County Water Supply and Control District	8280—148	1953, ch. 123 1955, ch. 332
Darr's Creek Watershed Authority	8280—215	1957, 1st C.S., ch. 30 1965, ch. 627
Dayton Drainage District	8280—276	1962, 3rd C.S., ch. 65
Deep East Texas Interbasin Navigation District	8280—299	1965, ch. 319
Deer Municipal Utility District	8280—357	1967, ch. 603
Del Mar Conservation District	8280—226	1959, ch. 220
Delta County Municipal Utility District	8280—589	1971, ch. 705
DeWitt County Countywide Conservation and Reclamation District	8280—475	1969, ch. 859
Dickinson Bayou Watershed Drainage District		1981, ch. 660 1983, ch. 1033
Dolphin Beach Municipal Utility District	8280—348	1967, ch. 581
Donahoe Creek Watershed Authority	8280—214	1957, 1st C.S., ch. 29
Donna Irrigation District, Hidalgo County No. 1		
Creation	8194 note	1930, 4th C.S., Spec.L., ch. 26 1959, ch. 108
Enlargement of boundaries	8194 note	1961, ch. 133
Reduction of boundaries	8194 note	1961, ch. 247
Dove Meadows Municipal Utility District	8280—525	1971, ch. 628
Dowdell Public Utility District	8280—581	1971, ch. 697
Duval County Conservation and Reclamation District	8280—138	1949, ch. 398 1963, ch. 452 1977, ch. 696
East Cedar Creek Fresh Water Supply District		1969, ch. 600
East Plantation Utility District	8280—451	1967, ch. 578
East Port Bolivar Municipal Utility District	8280—345	1949, ch. 465 1953, ch. 384 1955, ch. 231
Eastland County Water Supply District	8280—139	1957, 1st C.S., ch. 25 1961, ch. 134 1967, ch. 646 1975, ch. 465
Ecleto Creek Watershed District	8280—212	1981, 1st C.S., ch. 19
Edwards Underground Water District	8280—219	1959, ch. 99 1979, ch. 69 1979, ch. 306 1983, ch. 1010
El Dorado Utility District	8280—538	1971, ch. 648
El Lago Municipal Utility District	8280—246	1961, ch. 171
El Paso County Water Authority	8280—266	1961, 1st C.S., ch. 32 1969, ch. 718 1971, ch. 314
El Paso County Water Control and Improvement District—Westway	8280—250	1961, ch. 210
Elm Creek Water Control District	8280—387	1967, ch. 643 1969, ch. 221
Elm Creek Watershed Authority	8280—200	1957, ch. 273 1961, ch. 297 1967, ch. 639

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Name of District	Civ.St.Art.	Laws Citations
Emerald Bay Municipal Utility District		1983, ch. 722
Emerald Forest Utility District	8280—519	1971, ch. 584
Encanto Real Utility District	8280—584	1971, ch. 700
Enchanted Oaks Municipal Utility District	8280—366	1967, ch. 613
Enchanted Place Public Utility District	8280—513	1971, ch. 565
Enchanted Valley Public Utility District	8280—552	1971, ch. 665
Escondido Watershed District	8280—256	1961, ch. 364 1975, ch. 463
Evergreen Underground Water Conservation District	8280—297	1965, ch. 197 1967, ch. 647 1983, ch. 484, art. IV
Fairwood Utility District	8280—474	1969, ch. 858
Fallbrook Utility District	8280—456	1969, ch. 633
Fannett Sewage District		1983, ch. 711
Farmers Branch-Carrollton Flood Control District		1975, ch. 201
Farmers Creek Watershed Authority	8280—252	1961, ch. 252
Fayette County Flood Control District	8280—130	1941, ch. 361, art. III 1947, ch. 185
Fisher County Water Authority	8280—142	1951, ch. 115
Flamingo Isles Municipal Utility District	8280—327	1965, ch. 613
Flying "L" Public Utility District	8280—508	1971, ch. 505
Follets Island Water Supply District	8280—314	1965, ch. 533 1967, ch. 586
Fondren Lake Municipal Utility District	8280—440	1969, ch. 386
Fort Bend County Drainage District	8280—136	1949, ch. 303
Fort Bend County Municipal Utility District No. 13		1977, ch. 518
Fort Bend County Water Supply District	8280—187	1955, ch. 511 1961, ch. 253
Franklin County Water District		
Creation, powers, etc.	8280—341	1965, ch. 719 1971, ch. 354
Validation	8280—341 note	1967, ch. 308
Friendswood Drainage District of Galveston County	8280—285	1963, ch. 243 1979, ch. 34
Galveston County Drainage District No. 4	8280—237	1959, ch. 467
Galveston County Flood Control District	8280—459	1969, ch. 681
Galveston County Water Authority	8280—339	1965, ch. 712 1969, ch. 399 1979, ch. 708 1983, ch. 1049
Galveston Island Ranches Municipal Utility District	8280—352	1967, ch. 589
Galveston West Bay Municipal Utility District of Galveston County	8280—284	1963, ch. 241 1969, ch. 631
Glasscock County Underground Water Conservation District		1981, ch. 489
Glen Hollow Public Utility District	8280—481	1971, ch. 248
Glenshire Municipal Utility District	8280—433	1969, ch. 338
Glenwood Bayou Municipal Utility District	8280—247	1961, ch. 173
Graham Water Supply District		1981, ch. 667
Grand Road Public Utility District	8280—504	1971, ch. 474
Grayson County Water and Sewer Authority	8280—230	1959, ch. 328
Grayson County Water Improvement District No. 1	8280—159	1954, 1st C.S., ch. 13
Greater Texoma Municipal Utility District		
Creation, powers, etc.		1979, ch. 97
Name change		1983, ch. 398
Greater Texoma Utility Authority		
Creation, powers, etc.		1979, ch. 97
Name change, powers		1983, ch. 398
Green Ridge Municipal Utility District	8280—421	1969, ch. 259
Green Belt Municipal and Industrial Water Authority	8280—160	1954, 1st C.S., ch. 35 1957, ch. 73 1961, ch. 174

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Name of District	Civ.St.Art.	Laws Citations
		1965, ch. 555
		1973, ch. 172
		1975, ch. 75
		1979, ch. 383
		1981, ch. 517
Greenbriar Utility District	8280—449	1969, ch. 582
Greens Public Utility District	8280—510	1971, ch. 556
Greenwood Utility District	8280—452	1969, ch. 616
Ground Water Conservation District		
No. 2, North of Canadian River		
Creation, validation, powers, etc.	8280—179	1955, ch. 498
Name change		1983, ch. 760
No. 3, South of Canadian River		
Creation validation, powers, etc.	8280—191	1957, ch. 19
Name change		1957, ch. 19, § 1A, added by 1973, ch. 291
Guadalupe-Blanco River Authority		
Creation, powers, etc.	8280—106	1933, 1st C.S., ch. 75 1935, 1st C.S., ch. 410 1969, ch. 432 1975, ch. 433
Purchase of water supply facilities from West Side Calhoun County Navigation District	8198 note	1963, ch. 45
Guadalupe River Authority	8280—105	1933, 1st C.S., ch. 75
Gulf Coast Waste Disposal Authority	7621d—2	1969, ch. 409 1971, ch. 202 1973, ch. 258 1973, ch. 466 1975, ch. 443 1979, ch. 630 1979, ch. 841
Gulf Coast Water Control and Improvement District	8280—585	1971, ch. 701
Gulf Freeway Municipal Utility District	8280—307	1965, ch. 519 1967, ch. 590
Gulf Water Supply District	8280—112	1935, ch. 361
Gulfway Utility District	8280—436	1969, ch. 355
Haciendas Del Norte Water Improve- ment District		1981, ch. 104
Hannah Nash Public Utility District	8280—499	1971, ch. 440
Harbor Improvement District of Galveston County	8280—317	1965, ch. 559 1967, ch. 588
Harbor Utility District	8280—467	1969, ch. 752
Harris County Eastex Oaks Water and Sewer District	8280—205	1957, ch. 351
Harris County Flood Control District		
Bonds	8280—120	note 1947, ch. 407
Building setback lines along waterway	8280—120a	1963, ch. 118
Creation, powers, etc.	8280—120	1937, ch. 360 1967, ch. 631 1975, ch. 593
Eminent domain proceedings	8280—120	note 1947, ch. 406
Flood hazard areas	8280—120b	1965, ch. 394
Retirement disability and death fund	8280—120	note 1949, ch. 196 1957, ch. 258
Harris County Improvement District No. 1	8280—190	1955, ch. 527
Harris County Municipal Utility District		
No. 233		1983, ch. 704
Harris County Sanitation Authority	8280—156	1953, ch. 399
Harris County Utility District		
No. 1	8280—405	1969, ch. 148 1971, ch. 564
No. 2	8280—423	1969, ch. 263 1971, ch. 434

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Name of District	Civ.St.Art.	Laws Citations
Harris County Utility District—Continued		
No. 3	8280—406	1969, ch. 149 1971, ch. 435
No. 4		
Creation, powers, etc.	8280—416	1969, ch. 222 1971, ch. 998
Validation	8194 note	1971, ch. 92
No. 5	8280—407	1969, ch. 150
No. 6	8280—442	1969, ch. 391
No. 7	8280—408	1969, ch. 151
No. 8	8280—528	1971, ch. 633
No. 9	8280—497	1971, ch. 438
No. 10	8280—498	1971, ch. 439
No. 11	8280—500	1971, ch. 444
No. 12	8280—514	1971, ch. 571
No. 13	8280—506	1971, ch. 479
No. 14	8280—501	1971, ch. 445
No. 15	8280—533	1971, ch. 642
No. 16	8280—496	1971, ch. 437
Harris County Water Control and Improvement District		
Fonden Road		
Creation, powers, etc.	8280—288	1963, ch. 246
Land addition	8280—288a	1967, ch. 611
No. 132	8280—401	1969, ch. 144 1977, ch. 557
Harris-Galveston Coastal Subsidence District		
		1975, ch. 284
Haskell County Water Supply District	8280—164	1955, ch. 141
Hays County Wimberley Water Supply District	8280—221	1959, ch. 175 1963, ch. 489
Henderson County Municipal Water Authority		
	8280—277	1962, 3rd C.S., ch. 70
Hidalgo County Drainage District No. 2	8280—443	1969, ch. 393
Highland Municipal Utility District	8280—344	1967, ch. 572
Hillebrandt Sewage District		1983, ch. 712
Holiday Hills Public Utility District	8280—511	1971, ch. 558
Holiday Lakes Estates Municipal Utility District	8280—385	1967, ch. 640
Hondo Creek Watershed Improvement District		
	8280—213	1957, 1st C.S., ch. 26 1961, ch. 64 1971, ch. 208 1975, ch. 464
Horsepen Bayou Municipal Utility District	8280—472	1969, ch. 838
Hueco Valley Utility District	8280—461	1969, ch. 714
Huffsmith Road Public Utility District	8280—563	1971, ch. 676
Hull Fresh Water Supply District	8280—263	1961, ch. 533
Indian Hill Municipal Utility District Estates	8280—373	1967, ch. 620
No. 1	8280—377	1967, ch. 626
No. 2	8280—374	1967, ch. 621
Indian Springs Utility District	8280—586	1971, ch. 702
Inverness Forest Improvement District	8280—325	1965, ch. 605 1967, ch. 101 1969, ch. 579
Iowa Park Municipal District	8280—469	1969, ch. 756
Iron's Bayou Watershed Conservation District		
	8280—239	1959, ch. 497
Irving Flood Control District	8280—477	1971, ch. 135 1977, ch. 117
Irving Flood Control District Section III		1983, ch. 1073
Itasca Municipal Water District		1979, ch. 343
Jack County Water Control and Improvement District No. 1		
	8280—347	1967, ch. 580
Jackrabbit Road Public Utility District	8280—562	1971, ch. 675
Jackson County County-Wide Drainage District	8280—412	1969, ch. 200 1973, ch. 529

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Name of District	Civ.St.Art.	Laws Citations
Jackson County Water Control and Improvement District	8280-161	1955, ch. 60 1959, ch. 261
Jefferson County Fresh Water Supply District No. 2	8280-197	1957, ch. 145
Jefferson County Water Control and Improvement District	8280-166	1955, ch. 245
Jefferson Water and Sewer District	8280-203	1957, ch. 317
Jetero Public Utility District	8280-570	1971, ch. 683
Kerr County (Center Point) Water Control and Improvement District	8280-262	1961, ch. 518 1973, ch. 439
Kerrville South Utility District [repealed]	8280-448	1969, ch. 481 1977, ch. 698
Kimble County River Authority	8280-265	1961, ch. 252 1961, 1st C.S., ch. 23 1963, ch. 90
Klein Public Utility District	8280-490	1971, ch. 411
Knollwood Public Utility District	8280-560	1971, ch. 673
Kuykendahl Road Public Utility District		
No. 1	8280-565	1971, ch. 678
No. 2	8280-564	1971, ch. 677
La Porte Area Water Authority		1981, ch. 729
Lake Cities Municipal Utility Authority	8280-293	1963, ch. 312 1965, ch. 599 1969, ch. 136 1975, ch. 655
Lake Forest Utility District	8280-518	1971, ch. 579
Lake Tanglewood Utility District	8280-410	1969, ch. 182
Lakeside Beach Improvement District	8280-323	1965, ch. 600
Lakeside Water District of Tarrant County	8280-208	1957, ch. 377
Lakeside Water Supply District	8280-279	1963, ch. 13
Lamar County Water Supply District	8280-392	1967, ch. 653 1979, ch. 299
Langham Creek Utility District	8280-430	1969, ch. 306
Lannius Municipal Utility District		1973, ch. 620
LaPorte Utility District	8280-540	1971, ch. 652
Lavaca County Countywide Conservation and Reclamation District	8280-463	1969, ch. 745
Lavaca County Flood Control District No. 3	8280-218	1941, ch. 361, art. I 1947, ch. 183 1959, ch. 95 1967, ch. 591 1983, ch. 484, art. IV
Lavaca-Navidad River Authority	8280-131	1941, ch. 361, art. II 1947, ch. 186 1953, ch. 383 1955, ch. 313 1959, 3rd C.S., ch. 22 1963, ch. 14 1969, ch. 417 1983, ch. 1035
Lazy River Improvement District	8280-320	1965, ch. 584
League City Semi-Tropical Gardens Utility District	8280-521	1971, ch. 615
League Land Municipal Utility District	8280-349	1967, ch. 582
Lee County West Yequa Water Control and Improvement District No. 2	8280-195	1957, ch. 131
Leon River Flood Control District	8280-113	1935, ch. 414
Liberty County Conservation and Reclamation District No. 3	8280-102	1931, Spec.L., ch. 124
Liberty County Drainage District No. 5	8280-269	1961, 1st C.S., ch. 52
Liberty Public Utility District	8280-522	1971, ch. 623
Lipan Creek Flood Control District		
Creation, powers, etc.	8280-335	1965, ch. 628
Directors, terms of office		1981, ch. 473
Little York Municipal Utility District	8280-382	1967, ch. 636
Llano Estacado Water District		1977, ch. 208
Logan Slough Creek Improvement District	8280-248	1961, ch. 179 1963, ch. 215

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Name of District	Civ.St.Art.	Laws Citations
Lomax Municipal District [repealed]	8280—259	1961, ch. 438 1967, ch. 585
Long Island Utility District	8280—485	1971, ch. 302
Longhorn Town Utility District	8280—547	1971, ch. 659
Louetta North Public Utility District	8280—572	1971, ch. 685
Louetta Road Utility District	8280—464	1969, ch. 749
Lower Colorado River Authority	8280—107	1934, 4th C.S., ch. 7 1935, 1st C.S., ch. 405 1937, ch. 350 1939, Spec.L., p. 1048 1941, ch. 398 1949, ch. 61 1951, ch. 90 1955, ch. 165 1959, ch. 327 1962, 3rd C.S., ch. 11 1965, ch. 124 1967, ch. 655 1967, ch. 678 1971, ch. 174 1971, ch. 298 1971, ch. 820 1973, ch. 268, § 1 1973, ch. 271 1975, ch. 74 1983, ch. 484, art. IV
Lower Concho River Water and Soil Conservation Authority	8280—123	1939, Spec.L., p. 1053 1983, ch. 484, art. IV
Lower Neches Valley Authority	8280—103	1933, 1st C.S., ch. 63 1934, 4th C.S., ch. 17 1941, ch. 570 1949, ch. 567
Lower Nueces River Water Supply District		
Creation, powers, etc.	8280—134	1949, ch. 159
Validation	7880—20a, § 2	1955, ch. 260, § 2
Lower Rio Grande Authority	8280—144	1951, ch. 309 1953, ch. 403
Lower Rio Grande Flood Control District	8280—110	1935, ch. 319
Lower Rio Grande Water Conservation District	8194 note	1931, Spec.L., ch. 190
Luce Bayou Public Utility District	8280—509	1971, ch. 554
Lumberton Municipal Utility District		1973, ch. 388
Lynchburg Utility District	8280—396	1969, ch. 117
Mackenzie Municipal Water Authority	8280—298	1965, ch. 277
McAllen Foreign-Trade Zone Utility District	8280—590	1971, ch. 1046
McHard Road Municipal Utility District	8280—419	1969, ch. 257
McLennan County Water Control and Improvement District—Bosqueville Hills [repealed]	8280—272	1962, 3rd C.S., ch. 29 1967, ch. 33
McMullen County Water Control and Improvement District No. 2	8280—290	1963, ch. 286
Malcomson Road Utility District	8280—546	1971, ch. 658
Manning Utility District	8280—426	1969, ch. 302
Mason County River Authority	8280—336	1965, ch. 629
Mason Creek Utility District	8280—551	1971, ch. 664
Matador Water District		1975, ch. 36
May Public Utility District	8280—523	1971, ch. 624
Mayfair Park Municipal Utility District	8280—244	1959, 3rd C.S., ch. 24 1971, ch. 127
Medina County Water Control and Improvement District No. 2	8280—152	1953, ch. 198
Meeker Municipal Water District		1977, ch. 714
Memorial Hills Utility District	8280—409	1969, ch. 152
Memorial Point Utility District	8280—493	1971, ch. 423
Memorial Villages Water Authority	8280—271	1962, 3rd C.S., ch. 20 1967, ch. 645

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Name of District	Civ.St.Art.	Laws Citations
Memorial West Utility District	8280-428	1969, ch. 304
Metropolitan Sanitary Sewer District of South Jefferson County	8280-201	1957, ch. 278
Middle Sabine River Navigation District	8198 note	1965, ch. 23 1967, ch. 21
Midlothian Water District		1973, ch. 252
Mid-Tex Regional Water Supply District		1981, ch. 494
Mill Creek Water Control and Improvement District	8280-236	1959, ch. 454
Montgomery County Flood Control District		1983, ch. 358
Montgomery County Municipal Utility Dis- trict		
No. 5	8280-577	1971, ch. 692
No. 6	8280-578	1971, ch. 693
No. 7	8280-579	1971, ch. 694
No. 9	8280-588	1971, ch. 704
Montgomery County Utility District		
No. 2	8280-530	1971, ch. 635
No. 3	8280-529	1971, ch. 634
No. 4	8280-486	1971, ch. 344
Mossy Oaks Utility District	8280-516	1971, ch. 577
Muenster Water District		1973, ch. 619
Neches River Conservation District	8280-108	1935, ch. 97 1939, Spec.L., p. 1080 1945, ch. 287 1977, ch. 394
New Ulm Municipal Utility District		1983, ch. 697
Newton County Navigation District	8280-337	1965, ch. 645
Newton County Water Supply District	8280-174	1955, ch. 359 1959, ch. 153
Norchester Municipal Utility District	8280-362	1967, ch. 608
North Belt Utility District	8280-399	1969, ch. 139
North Central Texas Municipal Water Au- thority	8280-193	1957, ch. 86 1969, ch. 77 1971, ch. 849
North Cheek Sewage District		1983, ch. 713
North Forest Municipal Utility District	8280-359	1967, ch. 605
North LaBelle Sewage District		1983, ch. 715
North Montague County Water Supply Dis- trict	8280-158	1954, 1st C.S., ch. 12
North Nome Improvement District	8280-302	1965, ch. 336
North Park Public Utility District	8280-580	1971, ch. 696
North Plains Ground Water Conservation District No. Two		
Creation, validation, powers, etc.	8280-179	1955, ch. 498
Name change, boundaries, directors		1983, ch. 760
North Tarrant County Municipal Water Dis- trict	8280-204	1957, ch. 318
North Texas Municipal Water District	8280-141	1951, ch. 62 1969, ch. 122 1975, ch. 90
North Waco Water Supply District	8280-150	1953, ch. 185
Northbrook Municipal Utility District	8280-545	1971, ch. 657
Northeast Tarrant County Water Authority	8280-173	1955, ch. 308 1959, ch. 326 1961, ch. 119
Northeast Tarrant County Water District		1977, ch. 535
Northeast Texas Municipal Water District		
Creation, powers, etc.	8280-147	1953, ch. 78 1959, ch. 375 1959, 2nd C.S., ch. 28 1975, ch. 193
Directors, bonds, validation	8280-147a	1961 1st C.S., ch. 16
Northgate Utility District	8280-434	1969, ch. 350
Northwest Forest Municipal Utility District		1977, ch. 687

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Name of District	Civ.St.Art.	Laws Citations
Northwest Harris County Public Utility District		
No. 1	8280—535	1971, ch. 645
No. 2	8280—536	1971, ch. 646
No. 3		
Creation, powers, etc.	8280—537	1971, ch. 647
Validation		1975, ch. 461
Northwest Municipal Utility District	8280—553	1971, ch. 666
Nueces County Drainage and Conservation District No. 2, validation	8194 note	1961, ch. 520 1975, ch. 663
Nueces River Authority	8280—115	1935, 1st C.S., ch. 427 1937, 2nd C.S., ch. 20 1939, Spec.L., p. 1074 1943, ch. 390 1945, ch. 305 1971, ch. 695 1975, ch. 699 1979, ch. 138
Nugent's Cove Municipal Utility District	8280—370	1967, ch. 617
Oak Manor Municipal Utility District of Brazoria County	8280—295	1963, ch. 322
Oak Ridge Municipal Utility District	8280—368	1967, ch. 615
Oakmont Public Utility District	8280—524	1971, ch. 625
Old Snake River Municipal Utility District	8280—378	1967, ch. 629
Orange County Drainage District of Orange County	8280—292	1963, ch. 307 1977, ch. 212 1983, ch. 856
Orange County Navigation and Port District	8198 note	1953, ch. 370 1957, ch. 80 1961, 1st C.S., ch. 13 1969, ch. 785, § 3 1973, ch. 381
Palm Valley Estates Utility District	8280—397	1969, ch. 118
Palo Duro River Authority		1973, ch. 438 1975, ch. 115 1983, ch. 17
Palo Duro River Authority [repealed]	8280—243	1959, 2nd C.S., ch. 26 1961, 1st C.S., ch. 59 1963, ch. 9
Palo Pinto County Municipal Water District		
No. 1	8280—258	1961, ch. 416 1969, ch. 837 1971, ch. 450
Panhandle Ground Water Conservation District No. 3, South of Canadian River, name change		1957, ch. 19, § 1A, added by 1973, ch. 291 1983, ch. 1031
Panhandle Water Conservation Authority	8280—118	1937, ch. 256 1949, ch. 349
Parker County Utility District		1975, ch. 250
Parkglen Municipal Utility District	8280—361	1967, ch. 607
Parkway Utility District	8280—453	1969, ch. 617
Pearland Municipal Utility District of Brazoria County	8280—294	1963, ch. 321
Pease River Flood Control District	8280—114	1935, ch. 420
Pendleton Bridge Utility District	8280—394	1969, ch. 107
Pettus Municipal Utility District	8280—273	1962, 3rd C.S., ch. 38
Pine Bough Public Utility District	8280—480	1971, ch. 247
Pine Forest Municipal Utility District	8280—494	1971, ch. 427
Pine Forest Public Utility District	8280—482	1971, ch. 249
Pine Village Public Utility District	8280—539	1971, ch. 650
Pinehurst Utility District	8280—398	1969, ch. 119
Pineland Municipal Water Supply District	8280—235	1959, ch. 452
Pineview Water Supply District	8280—310	1965, ch. 522
Pirate's Cove Municipal Utility District		
Creation, powers, etc.	8280—318	1965, ch. 560
Land addition	8280—318a	1969, ch. 722

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Name of District	Civ.St.Art.	Laws Citations
Plateau Underground Water Conservation and Supply District	8280—305	1965, ch. 517 1971, ch. 326
Plum Creek Conservation District	8280—194	1957, ch. 126 1973, ch. 133 1981, ch. 659
Point Lookout Estates Municipal Utility District	8280—390	1967, ch. 649
Pond Creek Watershed Authority	8280—202	1957, ch. 279 1965, ch. 530 1977, ch. 722
Ponderosa Forest Utility District		
Creation, powers, etc.	8280—437	1969, ch. 356
Validation		1973, ch. 419
Port Mansfield Public Utility District	8280—278	1963, ch. 4
Port O'Connor Municipal Utility District		1977, ch. 693 1983, ch. 1045
Port of Beaumont Navigation District of Jefferson County	8198 note	1949, ch. 147 1957, ch. 20 1961, ch. 5 1961, 1st C.S., ch. 12 1963, ch. 317 1969, ch. 785, § 3
Title to Neches River Bed		1951, ch. 262
Validation		1950, 1st C.S., ch. 5
Port of Port Arthur Navigation District of Jefferson County	8198 note	1963, ch. 197 1967, ch. 25 1975, ch. 279 1979, ch. 25
Post Oak Road Municipal Utility District	8280—417	1969, ch. 255
Prairie View Municipal Utility District, validation	8194 note	1965, ch. 558
Prestonwood Public Utility District	8280—550	1971, ch. 663
Quail Valley Utility District	8280—445	1969, ch. 397
Rayburn Improvement District	8280—321	1965, ch. 587
Rayburn Municipal Utility District		1979, ch. 376 1981, ch. 36
Rayford Road Municipal Utility District	8280—402	1969, ch. 145
Reagan County Water Supply District	8280—181	1955, ch. 505 1979, ch. 222
Real-Edwards Conservation and Reclamation District	8280—233	1959, ch. 341
Red River Authority of Texas	8280—228	1959, ch. 279 1961, ch. 504 1967, ch. 570 1969, ch. 715 1969, ch. 856 1975, ch. 217 1977, ch. 529 1981, ch. 86 1981, ch. 870 1983, ch. 696
Refugio County Water Control and Improvement District No. 1	8280—153	1953, ch. 240
Rhea Utility District	8280—458	1969, ch. 639
Ridgemont Municipal Utility District, validation	8194 note	1969, ch. 385
Riesel Municipal Utility District	8280—232	1959, ch. 338
Rio Grande Palms Water District	8280—254	1961, ch. 324 1965, ch. 399
Rio Grande Valley Municipal Water Authority	8280—455	1969, ch. 623 1983, ch. 1082
Rio Grande Valley Pollution Control Authority	8280—389	1967, ch. 648
River Club Estates Municipal District	8280—369	1967, ch. 616
River Oaks Municipal Utility District	8280—372	1967, ch. 619

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Name of District	Civ.St.Art.	Laws Citations
River Plantation Municipal Utility District of Montgomery County	8280-291	1963, ch. 304
Robards Utility District	8280-470	1969, ch. 803
Robin Public Utility District	8280-559	1971, ch. 672
Rolling Creek Utility District	8280-549	1971, ch. 662
Rolling Fork Public Utility District	8280-576	1971, ch. 689
Roman Forest Public Utility District		
No. 1	8280-534	1971, ch. 644
No. 2	8280-554	1971, ch. 667
No. 3	8280-555	1971, ch. 668
No. 4	8280-556	1971, ch. 669
No. 5	8280-557	1971, ch. 670
No. 6	8280-558	1971, ch. 671
Rotan Municipal Water Authority	8280-251	1961, ch. 244 1963, ch. 331
Royal Forest Municipal Utility District	8280-367	1967, ch. 614
Runnels County Water Authority	8280-176	1955, ch. 376 1962, 3rd C.S., ch. 77 1977, ch. 532 1983, ch. 484, art. IV
Sabine Pass Port Authority		1973, ch. 379 1979, ch. 812 1981, ch. 56
Sabine River Authority	8280-133	1949, ch. 110 1955, ch. 93 1955, ch. 101 1973, ch. 238
Sageglen Municipal Utility District	8280-446	1969, ch. 398
Sagemeadow Utility District	8280-566	1971, ch. 679
Sagemont Municipal Utility District of Harris County	8280-283	1963, ch. 239
San Antonio River Authority	8280-119	1937, ch. 276 1939, Spec.L., p. 1083 1953, ch. 60 1957, ch. 504 1959, ch. 37 1961, ch. 233 1969, ch. 836 1975, ch. 301 1975, ch. 604 1981, ch. 60
San Augustine Water Authority	8280-169	1955, ch. 282
San Jacinto Place Municipal Utility District		
No. 1		1983, ch. 210
No. 2		1983, ch. 211
No. 3		1983, ch. 212
No. 4		1983, ch. 213
San Jacinto River Authority	8280-121	1937, ch. 426 1939, Spec.L., p. 1097 1941, ch. 480 1941, ch. 613 1943, ch. 371 1951, ch. 366 1951, ch. 367 1967, ch. 547
San Leon Municipal Utility District	8280-308	1965, ch. 520
San Patricio County conservation and reclamation districts, annexation	8194 note	1969, ch. 218
San Patricio County Drainage District	8280-411	1969, ch. 187 1979, ch. 31
San Patricio Municipal Water District	8280-145	1951, ch. 373 1954, 1st C.S., ch. 24 1971, ch. 737 1975, ch. 639 1977, ch. 91
San Simon Municipal Utility District		1973, ch. 540
Seabourne Creek Public Utility District	8280-582	1971, ch. 698
Sequoia Improvement District	8280-326	1965, ch. 606 1967, ch. 139 1969, ch. 223

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Name of District	Civ.St.Art.	Laws Citations
Shasla Public Utility District	8280—491	1971, ch. 412
Shelby County Water Supply District	8280—171	1955, ch. 285
Sienna Plantation Fresh Water Supply District		1979, ch. 344
South Cheek Sewage District		1983, ch. 714
South China Improvement District	8280—300	1965, ch. 331
South Concho River Flood Control District	8280—328	1965, ch. 614
South LaBelle Sewage District		1983, ch. 716
South Main Street Municipal Water District	8280—180	1955, ch. 504
South Texas Water Authority		1979, ch. 436
Southmost Regional Water Authority		1981, ch. 511
Spanish Cove Public Utility District	8280—489	1971, ch. 409
Spanish Grant Municipal Utility District	8280—354	1967, ch. 593
Spencer Road Public Utility District	8280—583	1971, ch. 699
Spewick Place Municipal Utility District	8280—342	1967, ch. 568
Spring Creek Forest Public Utility District	8280—527	1971, ch. 630
Spring Creek Utility District	8280—569	1971, ch. 682
Spring Hill Utility District	8280—465	1969, ch. 750
Spring Public Utility District	8280—492	1971, ch. 413
Staffordshire Municipal Utility District	8280—351	1967, ch. 587
Sulphur River Conservation and Reclamation District	8280—116	1935, 2nd C.S., ch. 445
Sulphur River Municipal Water District	8280—165	1955, ch. 212
Sulphur Springs Water District	8280—432	1969, ch. 310
Sunmeadow Municipal Utility District	8280—346	1967, ch. 579
Sweetwater Lake Municipal Utility District	8280—353	1967, ch. 592
Tall Timbers Utility District	8280—544	1971, ch. 656
Tarrant County Water Control and Improvement District		
Creation, powers, etc.	8280—207	1957, ch. 268 1965, ch. 601
Retirement, disability and death fund	8280—207a	1961, ch. 352
Sewage treatment facilities, bonds	8280—207b	1961, ch. 414
Tattor Road Municipal District	8280—473	1969, ch. 846
Tehuacana Utility District	8280—415	1969, ch. 216
Thompson Road Utility District	8280—395	1969, ch. 116
Three Rivers Water District	8280—303	1965, ch. 514
Thunderbird Utility District	8280—503	1971, ch. 456
Tidwell Timbers Municipal Utility District	8280—358	1967, ch. 604
Tiger Lake Utility District	8280—571	1971, ch. 684
Tigua-Hueco Utility District	8280—462	1969, ch. 716
Timber Creek Utility District	8280—454	1969, ch. 621
Timber Lane Utility District	8280—444	1969, ch. 395
Timberlake Improvement District	8280—309	1965, ch. 521 1967, ch. 77 1969, ch. 578
Timberlakes Estates Municipal Utility District	8280—388	1967, ch. 644
Tomball Road Utility District	8280—404	1969, ch. 147
Travis County Improvement District No. 1	8280—168	1955, ch. 279
Travis-Williamson County Water Control and Improvement District No. 1	8280—178	1955, ch. 401
Treasure Island Municipal Utility District	8280—313	1965, ch. 532
Treeline Improvement District	8280—306	1965, ch. 518
Tri-County Municipal Water District		
Creation, powers, etc.	8280—192	1957, ch. 56
Validation	8280—192	
	note	1957, 2nd C.S., ch. 11
Trinity Bay Conservation District	8280—135	1949, ch. 282 1950, 1st C.S., ch. 45 1957, ch. 144 1969, ch. 362 1975, ch. 249
Trinity River Authority of Texas	8280—188	1955, ch. 518 1957, ch. 256 1957, 1st C.S., ch. 22 1959, 2nd C.S., ch. 29 1965, ch. 173

TABLES OF SPECIAL WATER LAWS

Name of District	Civ.St.Art.	Laws Citations
Trinity River Authority of Texas—Continued		1967, ch. 273 1969, ch. 155 1969, ch. 156 1969, ch. 193 1969, ch. 198 1969, ch. 364 1979, ch. 87 1979, ch. 674
Trinity River Canal and Conservancy District	8198 note	1931, Spec.L., ch. 161
Turkey Creek Conservation District	8280—229	1959, ch. 281
Turkey Creek Improvement District	8280—304	1965, ch. 515 1967, ch. 89
Two Mile Creek Conservation and Reclamation District of Calhoun County	8280—186	1955, ch. 510
Tyler County Water Control and Improvement District No. 1	8280—185	1955, ch. 509
Upper Colorado River Authority	8280—109	1935, ch. 126 1936, 3rd C.S., ch. 505 1939, Spec.L., p. 1060 1941, ch. 174 1943, ch. 170 1947, ch. 119 1973, ch. 268, § 2 1983, ch. 484, art. IV
Upper Guadalupe River Authority		
Creation, powers, etc.	8280—124	1939, Spec.L., p. 1062 1957, ch. 83 1965, ch. 632 1971, ch. 430 1983, ch. 484, art. IV 1983, ch. 1059
Validation	8194 note	1965, ch. 193
Upper Jasper County Water Authority	8280—184	1955, ch. 508
Upper Lampasas River Municipal Water District		1973, ch. 274
Upper Leon River Municipal Water District	8280—257	1961, ch. 405 1965, ch. 542 1975, ch. 210
Upper Neches River Municipal Water Authority	8280—157	1953, ch. 412 1955, ch. 193 1957, 2nd C.S., ch. 31 1959, 2nd C.S., ch. 9 1959, 3rd C.S., ch. 3 1983, ch. 484, art. IV
Upper Red River Flood Control and Irrigation District	8280—122	1937, ch. 454 1965, ch. 557
Upton County Water District		1977, ch. 264
Valley Acres Water District	8280—143	1951, ch. 261
Valley Conservation and Reclamation District	8280—104	1933, 1st C.S., ch. 68
Valley Creek Water Control District	8280—238	1959, ch. 469 1961, ch. 70 1965, ch. 247
Varner Creek Utility District	8280—488	1971, ch. 352
Village of San Luis Municipal Utility District	8280—319	1965, ch. 561
Village Public Utility District	8280—483	1971, ch. 251
Webb County Conservation and Reclamation District	8280—125	1939, Spec.L., p. 1074
West Cedar Creek Municipal Utility District		1975, ch. 742
West Central Texas Municipal Water District	8280—162	1955, ch. 66 1955, ch. 349 1957, 1st C.S., ch. 13 1959, ch. 14 1961, ch. 32 1961, ch. 194 1963, ch. 100
West End Municipal Utility District	8280—350	1967, ch. 583

TABLE III

Name of District	Civ.St.Art.	Laws Citations
West Jefferson County Municipal Water District		1977, ch. 337
West Road Improvement District	8280—333	1965, ch. 621 1967, ch. 140 1969, ch. 267
West Trinity Water, Sewer and Improvement District	8280—149	1953, ch. 124
Westchester Municipal Utility District	8280—360	1967, ch. 606
Westcrest Utility District	8280—507	1971, ch. 480
Westheimer Road Municipal Utility District	8280—356	1967, ch. 602
Westway Utility District	8280—502	1971, ch. 446
Wheeler County Water Supply District		1983, ch. 45
White Bluff Water Control and Improvement District of Hill County	8280—447	1969, ch. 431
White Oak Municipal Utility District	8280—363	1967, ch. 609
White River Municipal Water District		
Creation, powers, etc.	8280—198	1957, ch. 221 1961, 1st C.S., ch. 34
Directors, bonds	8280—198a	1961, 1st C.S., ch. 35
Wichita County Water Control and Improvement District No. 6	8280—216	1959, ch. 25
Wilbarger County Water Supply District	8280—151	1953, ch. 186
Wilbarger Creek Water Control and Improvement District No. 1 of Bastrap and Travis Counties		
Creation, powers, etc.	8280—209	1957, ch. 466
Maintenance tax	8280—209	note
Wilcrest Improvement District	8280—330	1957, 2nd C.S., ch. 9 1965, ch. 618 1967, ch. 99 1969, ch. 224
Willacy County Drainage District		
No. 1	8280—413	1969, ch. 10 1971, ch. 281 1983, ch. 672
No. 2	8280—414	1969, ch. 11 1971, ch. 280
Williamson County Water Supply District [repealed]	8280—242	1959, 2nd C.S., ch. 23 1967, ch. 197
Willow Creek Water Control District		
Creation, powers, etc.	8280—384	1967, ch. 638
Directors, terms of office		1981, ch. 475
Willowisp Municipal Utility District	8280—375	1967, ch. 623
Windfern Forest Utility District	8280—574	1971, ch. 687
Windfern Municipal Utility District	8280—391	1967, ch. 651
Windswept Utility District	8280—568	1971, ch. 681
Wimmsboro-Quitman Water District		1981, ch. 97
Wise County Municipal Utility District		
No. 1		1973, ch. 279
No. 2		1973, ch. 280
Wise County Water Supply District	8280—155	1953, ch. 268 1965, ch. 76
Woodforest North Utility District	8280—567	1971, ch. 680
Woodland North Utility District	8280—441	1969, ch. 390
Yorks Creek Improvement District	8280—167	1955, ch. 250 1957, ch. 219
Yupson Cove Municipal Utility District	8280—376	1967, ch. 625
Zapata County Water Control and Improvement District—San Ygnacio	8280—264	1961, 1st C.S., ch. 2

TABLE IV
NUMERICAL TABLE OF SPECIAL LAWS
PERTAINING TO WATER

The tabulation below lists the special laws pertaining to water arranged numerically in Civil Statutes classification order or, where not so classified, in order of legislative enactment by subject matter.

The texts of these special laws are not published in West's Texas Statutes and Codes. For text of these special laws, see the General and Special Laws of Texas.

Civ.St.Art.	Laws Citations	Subject Matter
		Abandoned beds and channels, relinquishment of state title
7467a	1925, ch. 155	—Counties of 40,000 or more
7467b	1949, ch. 372	—Counties over 350,000
7621d—2	1969, ch. 409	Gulf Coast Waste Disposal Authority
	1971, ch. 202	
	1973, ch. 258	
	1973, ch. 466	
	1975, ch. 443	
	1979, ch. 630	
	1979, ch. 841	
7622a	1927, ch. 247	Improvement districts —Districts organized for cooperation under Federal Reclamation Laws including lands within existing district
7641—a, b	1939, Spec.L., p. 1103, §§ 1, 2 1941, ch. 536 1961, ch. 429	—Districts under contract with Dept. of Interior, division of district, election of directors, boundaries
7652b	1955, ch. 79	—Employment of manager, tax assessor and collector, etc.
7684—b	1939, Spec.L., p. 1103, § 3	—Penalty for delinquent tax payment
		Improvement districts obtaining water supply from United States
7700b	1934, 2nd C.S., ch. 50	—Validating refunding bonds
7700c	1945, ch. 350	—Refunding bonds for retirement of amortization bonds
7775c	1930, 5th C.S., ch. 57	Improvement districts, exclusion of land, counties of 1034 to 1036 square miles
		Improvement districts under contract with United States
7794a	1925, ch. 123, § 1	—Acquisition, sale, lease, etc., of electric plants
7794b	1925, ch. 123, § 2	—Cooperation with districts of other states
7807b	1933, ch. 25	Improvement districts, funding districts not over 12,000 acres
7807c	1933, ch. 93	Refunding bonds
7807c—1	1935, ch. 336	—Validating proceedings
		Improvement districts organized for cooperation under Federal Reclamation Laws
7807d	1933, ch. 76	—Organization, powers, etc.
	1933, 1st C.S., ch. 19, § 1	
7807dd	1933, 1st C.S., ch. 19, §§ 2 to 7	—Validation, borrowing money from federal government
7807f	1933, ch. 121	Water supply districts
		Improvement districts, validation acts
7807g	1934, 3rd C.S., ch. 59	—Conversion into control and improvement district

TABLE IV

Civ.St.Art.	Laws Citations	Subject Matter
7807h	1935, 2nd C.S., ch. 477	—Bonds
7807i	1937, ch. 294	Improvement districts, tax authority, districts of 10,000 to 15,000 acres
7807j	1937, ch. 432	Improvement districts, validation acts, counties of 48,500 to 48,600
7807k	1937, 1st C.S., ch. 15	Improvement districts organized for cooperation under Federal Reclamation Laws, validation, organization and bonds
7807l	1939, Spec.L., p. 1043	Improvement districts, validation acts
7807u	1949, ch. 332	—Counties of 250,000 to 300,000
7880—20a, § 2	1955, ch. 260, § 2	—Composition of indebtedness plan
7880—20a	1955, ch. 260	Lower Nueces River Water Supply District, validation
7880—20b	1969, ch. 832	Control and improvement districts
7880—38a	1939, Spec.L., p. 1105	—Boundaries coterminous with city, selection of directors, validation of proceedings
7880—75c	1955, ch. 48	—Directors, appointment or election, cities in counties of 900,000 to 1,000,000
7880—76c	1965, ch. 318	—Directors, appointment or election in district containing over 80,000 acres within 2 or more counties
7880—90c	1949, ch. 285	—Validation acts, addition of land
7880—146	1941, ch. 119	—Exclusion of land, urban property and unirrigated lands over 30,000 acres
7880—147a(1)	1951, ch. 114	—Validation acts, bonds
7880—147c7	1951, ch. 381	—Directors' appointment or election in district containing under 12,000 acres
7880—147c8	1961, ch. 494	—Validation acts
7880—147c9	1947, ch. 382, § 2	—Counties of 250,000 to 310,000
7880—147c10	1925, ch. 25, § 146	—District containing not over 3,500 acres
7880—147c11	1951, ch. 127	—Bonds
7880—147u	1955, ch. 469	—Counties over 800,000
7880—147v	1957, ch. 310, § 2	—Bonds
7880—147w	1957, ch. 310, § 2	—Organization, proceedings, etc.
7880—147x	1965, ch. 434	—Exclusion and annexation of land
7880—147y	1934, 2nd C.S., ch. 4	—Borrowing from federal agencies, taxes and bonds authorized
7880—147z	1936, 3rd C.S., ch. 501	Flood control
7880—148	1934, 4th C.S., ch. 29	—Cooperation of counties on Mexico border with U.S.
7880—149	1937, ch. 202	—Lower Rio Grande Flood Control Project, easements
7880—150	1935, 1st C.S., ch. 372	Control and improvement districts
7880—151	1939, Spec.L., p. 1039	—Validation acts
7880—152	1935, 1st C.S., ch. 372	—Bonds
7880—153	1932, 4th C.S., ch. 3, § 1	—Counties of 3,750 to 3,800
7880—154	1932, 4th C.S., ch. 3, § 1	—Organization, proceedings, etc.
7880—155	1932, 4th C.S., ch. 3, § 2	—Refunding bonds, cities of 40,000 to 100,000
7880—156	1932, 4th C.S., ch. 3, § 2	—Refunding bonds, cities of 40,000 to 100,000
7880—157	1934, 3rd C.S., ch. 12	—Counties of 5,000 to 13,000
7880—158	1947, ch. 77	—Counties of 5,000 to 13,000
7880—159	1925, ch. 35, §§ 1 to 6	Cameron and Willacy Counties, overflows
7880a	1939, p. 705	Exclusion of land, control and preservation districts
7880b	1983, ch. 235, art. 8	Fresh water supply districts
7887a	1927, 1st C.S., ch. 58, § 3	—Validation acts
7893a	1951, ch. 427	—Formation of district
7930—1	1935, 2nd C.S., ch. 475	—Numerical re-designation
		—Exclusion of land, counties of 3,000 to 20,000

TABLES OF SPECIAL WATER LAWS

Civ.St.Art.	Laws Citations	Subject Matter
7941b	1951, ch. 81	—Validation acts, bonds and organization —Drainage districts —Commissioners
8119a	1967, ch. 584	—Election, counties of 75,000 to 90,000
8120a	1949, ch. 254	—Compensation, counties of 90,000 to 150,000
8152a	1951, ch. 286	—Acquisition and sale of land, validation
—	1963, ch. 236	—Contracts with U.S.: Districts in Hidalgo, Willacy and Cameron Counties converted into conservation and reclamation districts —Commissioners
8161b	1947, ch. 437 1961, ch. 482 1975, ch. 453	—Powers, compensation, etc., counties of 150,000 to 350,000
8161d	1949, ch. 201 1971, ch. 590 1981, ch. 237, § 133	—Powers, compensation, etc., counties of 160,000 to 170,000
8176b	1955, ch. 315	—Annexation of territory —Conversion into conservation and reclamation district wholly in one county
8176b—1	1957, ch. 345	—District not converted into conservation and reclamation district wholly in one county
8176b—2	1959, ch. 403	—District not converted into conservation and reclamation district wholly in one county over 175,000
8176d	1959, ch. 402	—Consolidation of contiguous districts wholly in one county over 175,000
8193—1	1945, ch. 143	—Abolition of districts in counties having flood control or conservation and reclamation district
8194 note	1971, ch. 66	City of Cities Municipal Utility District, validation Donna Irrigation District, Hidalgo County No. 1
8194 note	1930, 4th C.S., Spec.L., ch. 26 1959, ch. 108	—Creation
8194 note	1961, ch. 133	—Enlargement of boundaries
8194 note	1961, ch. 247	—Reduction of boundaries
8194 note	1971, ch. 92	—Harris County Utility District, validation
8194 note	1931, Spec.L., ch. 190	—Lower Rio Grande Water Conservation District
8194 note	1961, ch. 520 1975, ch. 663	—Nueces County Drainage and Conservation District No. 2, validation
8194 note	1965, ch. 558	—Prairie View Municipal Utility District, validation
8194 note	1969, ch. 385	—Ridgemont Municipal Utility District, validation
8194 note	1969, ch. 218	—San Patricio County conservation and reclamation districts, annexation
8194 note	1965, ch. 193	—Upper Guadalupe River Authority, validation
8196 note	1963, ch. 236	—Hidalgo, Willacy and Cameron County conservation and reclamation districts, contracts with U.S.
8197a	1929, ch. 139	—Conservation or reclamation districts, validation of creation, bonds, etc.
8197d	1932, 3rd C.S., ch. 19	
8197d—1	1971, ch. 750	
8197e—1	1943, ch. 366	—State agencies, regulation to carry out purposes of Const. art. 16, § 59

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Civ.St.Art.	Laws Citations	Subject Matter
8198 note	1953, ch. 195 1957, ch. 291 1965, ch. 524 1977, ch. 701	Calhoun County Navigation District
8198 note	1963, ch. 45	Guadalupe-Blanco River Authority, purchase of water supply facilities from West Side Calhoun County Navigation District
8198 note	1965, ch. 23 1967, ch. 21	Middle Sabine River Navigation Dis- trict
8198 note	1953, ch. 370 1957, ch. 80 1961, 1st C.S., ch. 13 1969, ch. 785, § 3 1973, ch. 381	Orange County Navigation and Port District
8198 note	1949, ch. 147 1957, ch. 20 1961, ch. 5 1961, 1st C.S., ch. 12 1963, ch. 317 1969, ch. 785, § 3	Port of Beaumont Navigation District of Jefferson County
—	1951, ch. 262	—Title to Neches River Bed
—	1950, 1st C.S., ch. 5	—Validation
8198 note	1963, ch. 197 1967, ch. 25 1975, ch. 279 1979, ch. 25	Port of Port Arthur Navigation Dis- trict of Jefferson County
8198 note	1931, Spec.L., ch. 161	Trinity River Canal and Conservancy District
8235a	1945, ch. 90 1947, ch. 242 1955, ch. 211 1957, ch. 71 1977, ch. 299, § 4	Navigation districts —District containing city of 375,000 or more
8247c	1941, ch. 6	—Lease of land to U.S. by district con- taining city of 100,000 or more
8247f	1955, ch. 176	—Exchange or sale of land by district containing city of 375,000 or more
8263b	1931, ch. 365 1931, Spec.L., ch. 238	—Validation acts converted districts
8263c	1931, Spec.L., ch. 89 1933, 1st C.S., ch. 78	—District containing city of 27,000 to 28,000 —Validation acts
8263f	1933, 1st C.S., ch. 81	—Districts created by commissioners court
8263f-1	1951, ch. 11	—Districts engaged in operation of ports and port facilities
8263i	1947, ch. 163 1953, ch. 139	—Districts bordering Mexico, use of public lands and waters, convey- ances to U.S. —District containing city of 300,000 or more
8263j	1949, ch. 216	—Retirement, death and disability fund
8263k	1949, ch. 217	—Eminent domain powers Control and improvement districts, ex- clusion of land
8280-2	1949, ch. 37	—City of 13,305 to 14,310
8280-3	1949, ch. 336	—Urban property
8280-3.2	1971, ch. 86	
8280-3.5	1959, ch. 62	—Urban property, 1,800 to 2,500 acres
8280-4	1949, ch. 505	—Districts with 81,000 to 82,100 acres
8280-6	1953, ch. 390	—City of 20,000 or more Water development bonds
8280-9a	1965, ch. 221	—Authorization
8280-9a.1	1971, ch. 1011	—Further authorization
8280-10	1961, ch. 193 1961, 1st C.S., ch. 3 1963, ch. 176	District wholly within incorporated city: taxes, bonds, abolition, vali- dation

TABLES OF SPECIAL WATER LAWS

Districts Created and/or Validated Pursuant
to Const. Art. 16, § 59

Civ.St.Art.	Laws Citations	Subject Matter
8280—101	1929, 2nd C.S., ch. 13 1931, 1st C.S., ch. 5 1935, ch. 19 1935, 1st C.S., ch. 368, § 14 1953, ch. 194, §§ 1, 2 1973, ch. 240	Brazos River Authority —Creation, powers, etc.
8280—101 note	1934, 4th C.S., ch. 3 1935, 1st C.S., ch. 368 1953, ch. 194, §§ 3 to 5 1975, ch. 152	—Donation of taxes; bonds, etc.
8280—102	1931, Spec.L., ch. 124	Liberty County Conservation and Reclamation District No. 3
8280—103	1933, 1st C.S., ch. 63 1934, 4th C.S., ch. 17 1941, ch. 570 1949, ch. 567	Lower Neches Valley Authority
8280—104	1933, 1st C.S., ch. 68	Valley Conservation and Reclamation District
8280—105	1933, 1st C.S., ch. 75	Guadalupe River Authority
8280—106	1933, 1st C.S., ch. 75 1935, 1st C.S., ch. 410 1969, ch. 432 1975, ch. 433	Guadalupe-Blanco River Authority Creation, powers, etc.
8280—107	1934, 4th C.S., ch. 7 1935, 1st C.S., ch. 405 1937, ch. 350 1939, Spec.L., p. 1048 1941, ch. 398 1949, ch. 61 1951, ch. 90 1955, ch. 165 1959, ch. 327 1962, 3rd C.S., ch. 11 1965, ch. 124 1967, ch. 655 1967, ch. 678 1971, ch. 174 1971, ch. 298 1971, ch. 820 1973, ch. 268, § 1 1973, ch. 271 1975, ch. 74 1983, ch. 484, art. IV	Lower Colorado River Authority
8280—108	1935, ch. 97 1939, Spec.L., p. 1080 1945, ch. 287 1977, ch. 394	Angelina and Neches River Authority
8280—109	1935, ch. 126 1936, 3rd C.S., ch. 505 1939, Spec.L., p. 1060 1941, ch. 174 1943, ch. 170 1947, ch. 119 1973, ch. 268, § 2 1983, ch. 484, art. IV	Upper Colorado River Authority
8280—110	1935, ch. 319	Lower Rio Grande Flood Control District
8280—111	1935, ch. 338 1937, ch. 341 1939, Spec.L., p. 1045 1941, ch. 69 1983, ch. 484, art. IV	Central Colorado River Authority
8280—112	1935, ch. 361	Gulf Water Supply District

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Civ.St.Art.	Laws Citations	Subject Matter
8280—113	1935, ch. 414	Leon River Flood Control District
8280—114	1935, ch. 420	Pease River Flood Control District
8280—115	1935, 1st C.S., ch. 427 1937, 2nd C.S., ch. 20 1939, Spec.L., p. 1074 1943, ch. 390 1945, ch. 305 1971, ch. 695 1975, ch. 699 1979, ch. 138	Nueces River Authority
8280—116	1935, 2nd C.S., ch. 445	Sulphur River Conservation and Reclamation District
8280—117	1937, ch. 57	Comal County Water Recreational District No. 1
8280—118	1937, ch. 256 1949, ch. 349	Panhandle Water Conservation Authority
8280—119	1937, ch. 276 1939, Spec.L., p. 1083 1953, ch. 60 1957, ch. 504 1959, ch. 37 1961, ch. 233 1969, ch. 836 1975, ch. 301 1975, ch. 604 1981, ch. 60	San Antonio River Authority
8280—120 note	1947, ch. 406	Harris County Flood Control District —Eminent domain proceedings
8280—120 note	1949, ch. 196 1957, ch. 258	—Retirement, disability and death fund
8280—120	1937, ch. 360 1967, ch. 631 1975, ch. 593	—Creation, powers, etc.
8280—120 note	1947, ch. 407	—Bonds
8280—120a	1963, ch. 118	—Building setback lines along waterway
8280—120b	1965, ch. 394	—Flood hazard areas
8280—121	1937, ch. 426 1939, Spec.L., p. 1097 1941, ch. 480 1941, ch. 613 1943, ch. 371 1951, ch. 366 1951, ch. 367 1967, ch. 547	San Jacinto River Authority
8280—122	1937, ch. 454 1965, ch. 557	Upper Red River Flood Control and Irrigation District
8280—123	1939, Spec.L., p. 1053 1983, ch. 484, art. IV	Lower Concho River Water and Soil Conservation Authority
8280—124	1939, Spec.L., p. 1062 1957, ch. 83 1965, ch. 632 1971, ch. 430 1983, ch. 484, art. IV 1983, ch. 1059	Upper Guadalupe River Authority Creation, powers, etc.
8280—125	1939, Spec.L., p. 1074	Webb County Conservation and Reclamation District
8280—126	1945, ch. 306 1953, ch. 66 1957, ch. 40	Bexar County Metropolitan Water District
8280—127	1945, ch. 355 1951, ch. 50	Dallas County Flood Control District Creation, powers, etc.
8280—127 note	1969, ch. 787	Dallas County Flood Control District Creation, powers, etc., validation of acts
8280—129	1941, ch. 361, art. IV 1947, ch. 184	Colorado County Flood Control District

TABLES OF SPECIAL WATER LAWS

Civ.St.Art.	Laws Citations	Subject Matter
8280—130	1941, ch. 361, art. III 1947, ch. 185	Fayette County Flood Control District
8280—131	1941, ch. 361, art. II 1947, ch. 186 1953, ch. 383 1955, ch. 313 1959, 3rd C.S., ch. 22 1963, ch. 14 1969, ch. 417 1983, ch. 1035	Lavaca-Navidad River Authority
8280—132	1947, ch. 456	Dallas County Park Cities Water Control and Improvement District No. 2
8280—133	1949, ch. 110 1955, ch. 93 1955, ch. 101 1973, ch. 238	Sabine River Authority
8280—134	1949, ch. 159	Lower Nueces River Water Supply District, creation, powers, etc.
8280—135	1949, ch. 282 1950, 1st C.S., ch. 45 1957, ch. 144 1969, ch. 362 1975, ch. 249	Trinity Bay Conservation District
8280—136	1949, ch. 303	Fort Bend County Drainage District
8280—137	1949, ch. 340 1961, 1st C.S., ch. 4 1981, ch. 621	Colorado River Municipal Water District
8280—138	1949, ch. 398 1963, ch. 452	Duval County Conservation and Reclamation District
8280—139	1949, ch. 465 1953, ch. 384 1955, ch. 231	Eastland County Water Supply District
8280—141	1951, ch. 62 1969, ch. 122 1975, ch. 90	North Texas Municipal Water District
8280—142	1951, ch. 115	Fisher County Water Authority
8280—143	1951, ch. 261	Valley Acres Water District
8280—144	1951, ch. 309 1953, ch. 403	Lower Rio Grande Authority
8280—145	1951, ch. 373 1954, 1st C.S., ch. 24 1971, ch. 737 1975, ch. 639 1977, ch. 91	San Patricio Municipal Water District
8280—146	1951, ch. 418 1963, ch. 186	Brookshire Municipal Water District
8280—147	1953, ch. 78 1959, ch. 375 1959, 2nd C.S., ch. 28 1975, ch. 193	Northeast Texas Municipal Water District —Creation, powers, etc.
8280—147a	1961, 1st C.S., ch. 16	—Directors, bonds, validation
8280—148	1953, ch. 123 1955, ch. 332	Dallas County Water Supply and Control District
8280—149	1953, ch. 124	West Trinity Water, Sewer and Improvement District
8280—150	1953, ch. 185	North Waco Water Supply District
8280—151	1953, ch. 186	Wilbarger County Water Supply District
8280—152	1953, ch. 198	Medina County Water Control and Improvement District No. 2
8280—153	1953, ch. 240	Refugio County Water Control and Improvement District No. 1

TABLE IV

Civ.St.Art.	Laws Citations	Subject Matter
8280—154	1953, ch. 243 1955, ch. 196 1957, ch. 204 1961, ch. 67 1969, ch. 63 1981, ch. 42	Canadian River Municipal Water Authority
8280—155	1953, ch. 268 1965, ch. 76	Wise County Water Supply District
8280—156	1953, ch. 399	Harris County Sanitation Authority
8280—157	1953, ch. 412 1955, ch. 193 1957, 2nd C.S., ch. 31 1959, 2nd C.S., ch. 9 1959, 3rd C.S., ch. 3 1983, ch. 484, art. IV	Upper Neches River Municipal Water Authority
8280—158	1954, 1st C.S., ch. 12	North Montague County Water Supply District
8280—159	1954, 1st C.S., ch. 13	Grayson County Water Improvement District No. 1
8280—160	1954, 1st C.S., ch. 35 1957, ch. 73 1961, ch. 174 1965, ch. 555 1973, ch. 172 1975, ch. 75 1979, ch. 383 1981, ch. 517	Green Belt Municipal and Industrial Water Authority
8280—161	1955, ch. 60 1959, ch. 261	Jackson County Water Control and Improvement District
8280—162	1955, ch. 66 1955, ch. 349 1957, 1st C.S., ch. 13 1959, ch. 14 1961, ch. 32 1961, ch. 194 1963, ch. 100	West Central Texas Municipal Water District
8280—163	1955, ch. 123 1965, ch. 15 1969, ch. 593 1977, ch. 720	Benbrook Sewer and Water Authority
8280—164	1955, ch. 141	Haskell County Water Supply District
8280—165	1955, ch. 212	Sulphur River Municipal Water District
8280—166	1955, ch. 245	Jefferson County Water Control and Improvement District
8280—167	1955, ch. 250 1957, ch. 219	Yorks Creek Improvement District
8280—168	1955, ch. 279	Travis County Improvement District No. 1
8280—169	1955, ch. 282	San Augustine Water Authority
8280—170	1955, ch. 283	Colorado County Water Control and Improvement District No. 1
8280—171	1955, ch. 285	Shelby County Water Supply District
8280—172	1955, ch. 286 1957, ch. 143	Boling Municipal Water District
8280—173	1955, ch. 308 1959, ch. 326 1961, ch. 119	Northeast Tarrant County Water Authority
8280—174	1955, ch. 359 1959, ch. 153	Newton County Water Supply District
8280—175	1955, ch. 373	Atascosa and Frio Counties Improvement District No. 1
8280—176	1955, ch. 376 1962, 3rd C.S., ch. 77 1977, ch. 532 1983, ch. 484, art. IV	Runnels County Water Authority
8280—177	1955, ch. 400 1961, 1st C.S., ch. 49 1965, ch. 187	City of McAllen Water and Sewer Authority

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8280—178	1955, ch. 401	Travis-Williamson County Water Control and Improvement District No. 1
8280—179	1955, ch. 498 1983, ch. 760	North Plains Ground Water Conservation District No. Two
8280—180	1955, ch. 504	South Main Street Municipal Water District
8280—181	1955, ch. 505 1979, ch. 222	Reagan County Water Supply District
8280—182	1955, ch. 506 1979, ch. 441 1983, ch. 1051	Bell County Water Control and Improvement District —No. 3
8280—183	1955, ch. 507	—No. 4
8280—184	1955, ch. 508	Upper Jasper County Water Authority
8280—185	1955, ch. 509	Tyler County Water Control and Improvement District No. 1
8280—186	1955, ch. 510	Two Mile Creek Conservation and Reclamation District of Calhoun County
8280—187	1955, ch. 511 1961, ch. 253	Fort Bend County Water Supply District
8280—188	1955, ch. 518 1957, ch. 256 1957, 1st C.S., ch. 22 1959, 2nd C.S., ch. 29 1965, ch. 173 1967, ch. 273 1969, ch. 155 1969, ch. 156 1969, ch. 193 1969, ch. 198 1969, ch. 364 1979, ch. 87 1979, ch. 674	Trinity River Authority of Texas
8280—189	1955, ch. 523 1977, ch. 723 1983, ch. 1052	Bell County Water Control and Improvement District No. 1
8280—190	1955, ch. 527	Harris County Improvement District No. 1
8280—191	1957, ch. 19 1973, ch. 291 1983, ch. 1031	Panhandle Ground Water Conservation District Number Three, South of Canadian River Tri-County Municipal Water District
8280—192	1957, ch. 56	—Creation, powers, etc.
8280—192 note	1957, 2nd C.S., ch. 11	Validation
8280—193	1957, ch. 86 1969, ch. 77 1971, ch. 849	North Central Texas Municipal Water Authority
8280—194	1957, ch. 126 1973, ch. 133 1981, ch. 659	Plum Creek Conservation District
8280—195	1957, ch. 131	Lee County West Yequa Water Control and Improvement District No. 2
8280—196	1957, ch. 142 1961, ch. 157	Athens Municipal Water Authority
8280—197	1957, ch. 145	Jefferson County Fresh Water Supply District No. 2
8280—198	1957, ch. 221 1961, 1st C.S., ch. 34	White River Municipal Water District Creation, powers, etc.
8280—198a	1961, 1st C.S., ch. 35	White River Municipal Water District, directors, bonds
8280—200	1957, ch. 273 1961, ch. 297 1967, ch. 639	Elm Creek Watershed Authority

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8280—201	1957, ch. 278	Metropolitan Sanitary Sewer District of South Jefferson County
8280—202	1957, ch. 279 1965, ch. 530 1977, ch. 722	Pond Creek Watershed Authority
8280—203	1957, ch. 317	Jefferson Water and Sewer District
8280—204	1957, ch. 318	North Tarrant County Municipal Water District
8280—205	1957, ch. 351	Harris County Eastex Oaks Water and Sewer District
8280—206	1957, ch. 368 1959, ch. 258 1961, ch. 258 1981, ch. 234	Bistone Municipal Water Supply District
		Tarrant County Water Control and Improvement District
8280—207	1957, ch. 268 1965, ch. 601	—Creation, powers, etc.
8280—207a	1961, ch. 352	—Retirement, disability and death fund
8280—207b	1961, ch. 414	—Sewage treatment facilities, bonds
8280—208	1957, ch. 377	Lakeside Water District of Tarrant County
		Wilbarger Creek Water Control and Improvement District No. 1 of Bastrap and Travis Counties
8280—209	1957, ch. 466	—Creation, powers, etc.
8280—209 note	1957, 2nd C.S., ch. 9	—Maintenance tax
8280—210	1957, 1st C.S., ch. 16	Collin County Water Control and Improvement District No. 2
8280—211	1957, 1st C.S., ch. 18 1961, ch. 300 1983, ch. 1056	Bell County Water Control and Improvement District No. 6
8280—212	1957, 1st C.S., ch. 25 1961, ch. 134 1967, ch. 646 1975, ch. 465 1981, 1st C.S., ch. 19	Ecleto Creek Watershed District
8280—213	1957, 1st C.S., ch. 26 1961, ch. 64 1971, ch. 208 1975, ch. 464	Hondo Creek Watershed Improvement District
8280—214	1957, 1st C.S., ch. 29	Donahoe Creek Watershed Authority
8280—215	1957, 1st C.S., ch. 30 1965, ch. 627	Darr's Creek Watershed Authority
8280—216	1959, ch. 25	Wichita County Water Control and Improvement District No. 6
8280—217	1959, ch. 33 1959, ch. 177	Choctaw Watershed Water Improvement District
8280—218	1941, ch. 361, art. I 1947, ch. 183 1959, ch. 95 1967, ch. 591 1983, ch. 484, art. IV	Lavaca County Flood Control District No. 3
8280—219	1959, ch. 99 1979, ch. 69 1979, ch. 306 1983, ch. 1010	Edwards Underground Water District
8280—220	1959, ch. 154	Attoyac Bayou Watershed Authority
8280—221	1959, ch. 175 1963, ch. 489	Hays County Wimberley Water Supply District
8280—222	1959, ch. 183 1983, ch. 643	Aquilla-Hackberry Creek Conservation District
		Bexar County Water Control and Improvement District
8280—223	1959, ch. 198	—Oak Hills
8280—224	1959, ch. 199	—Lackland
8280—225	1959, ch. 200	—Northwest

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8280-226	1959, ch. 220	Del Mar Conservation District
8280-227	1959, ch. 262	Bell County Improvement District
	1959, 3rd C.S., ch. 12	
8280-228	1959, ch. 279	Red River Authority of Texas
	1961, ch. 504	
	1967, ch. 570	
	1969, ch. 715	
	1969, ch. 856	
	1975, ch. 217	
	1977, ch. 529	
	1981, ch. 86	
	1981, ch. 870	
	1983, ch. 696	
8280-229	1959, ch. 281	Turkey Creek Conservation District
8280-230	1959, ch. 328	Grayson County Water and Sewer Authority
8280-231	1959, ch. 333	City of Bonham Water Authority
8280-232	1959, ch. 338	Riesel Municipal Utility District
8280-233	1959, ch. 341	Real-Edwards Conservation and Reclamation District
8280-234	1959, ch. 372	Clear Creek Watershed Authority
	1983, ch. 449	
8280-235	1959, ch. 452	Pineland Municipal Water Supply District
8280-236	1959, ch. 454	Mill Creek Water Control and Improvement District
8280-237	1959, ch. 467	Galveston County Drainage District No. 4
8280-238	1959, ch. 469	Valley Creek Water Control District
	1961, ch. 70	
	1965, ch. 247	
8280-239	1959, ch. 497	Iron's Bayou Watershed Conservation District
8280-240	1959, ch. 503	Beason-Cedar Creek Watershed Authority
8280-241	1959, 1st C.S., ch. 17	Coke County Kickapoo Water Control and Improvement District No. 1
8280-242	1959, 2nd C.S., ch. 23	Williamson County Water Supply District [repealed]
	1967, ch. 197	
8280-243	1959, 2nd C.S., ch. 26	Palo Duro River Authority [repealed]
	1961, 1st C.S., ch. 59	
	1963, ch. 9	
8280-244	1959, 3rd C.S., ch. 24	Mayfair Park Municipal Utility District
	1971, ch. 127	
8280-245	1961, ch. 114	Bowie County Water Supply District
8280-246	1961, ch. 171	El Lago Municipal Utility District
8280-247	1961, ch. 173	Glenwood Bayou Municipal Utility District
8280-248	1961, ch. 179	Logan Slough Creek Improvement District
	1963, ch. 215	
8280-249	1961, ch. 203	Brookshire-Katy Drainage District
	1967, ch. 220	
8280-250	1961, ch. 210	El Paso County Water Control and Improvement District—Westway
8280-251	1961, ch. 244	Rotan Municipal Water Authority
	1963, ch. 331	
8280-252	1961, ch. 252	Farmers Creek Watershed Authority
8280-254	1961, ch. 324	Rio Grande Palms Water District
	1965, ch. 399	
8280-255	1961, ch. 363	Brown County Water Control and Improvement District—Holiday Hills
8280-256	1961, ch. 364	Escondido Watershed District
	1975 ch. 463	
8280-257	1961, ch. 405	Upper Leon River Municipal Water District
	1965, ch. 542	
	1975, ch. 210	

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8280—258	1961, ch. 416 1969, ch. 837 1971, ch. 450	Palo Pinto County Municipal Water District No. 1
8280—259	1961, ch. 438 1967, ch. 585	Lomax Municipal District [repealed]
		Castelman Creek Watershed Association
8280—260	1961, ch. 441	—Creation, powers, etc.
8280—260	1965, ch. 635	—Validation
8280—261	1961, ch. 483	Angleton Municipal Utility District
8280—262	1961, ch. 518 1973, ch. 439	Kerr County (Center Point) Water Control and Improvement District
8280—263	1961, ch. 533	Hull Fresh Water Supply District
8280—264	1961, 1st C.S., ch. 2	Zapata County Water Control and Improvement District—San Ygnacio
8280—265	1959, ch. 469 1961, 1st C.S., ch. 23 1963, ch. 90	Kimble County River Authority
8280—266	1961, 1st C.S., ch. 32 1969, ch. 718 1971, ch. 314	El Paso County Water Authority
8280—267	1961, 1st C.S., ch. 33	Chantilly Oaks Municipal Utility District
8280—268	1961, ch. 50	Bayshore Municipal Utility District
8280—269	1961, 1st C.S., ch. 52	Liberty County Drainage District No. 5
8280—270	1962, 3rd C.S., ch. 12 1981, ch. 661	Alice Water Authority
8280—271	1962, 3rd C.S., ch. 20 1967, ch. 645	Memorial Villages Water Authority
8280—272	1962, 3rd C.S., ch. 29 1967, ch. 33	McLennan County Water Control and Improvement District—Bosqueville Hills [repealed]
8280—273	1962, 3rd C.S., ch. 38	Pettus Municipal Utility District Brazoria County Water Control and Improvement District
8280—274	1962, 3rd C.S., ch. 46 1963, ch. 79	—Lake Alaska [repealed]
8280—275	1962, 3rd C.S., ch. 52 1963, ch. 20	—Brushy Meadows [repealed]
8280—276	1962, 3rd C.S., ch. 65	Dayton Drainage District
8280—277	1962, 3rd C.S., ch. 70	Henderson County Municipal Water Authority
8280—278	1963, ch. 4	Port Mansfield Public Utility District
8280—279	1963, ch. 13	Lakeside Water Supply District
8280—280	1963, ch. 101 1973, ch. 164 1977, ch. 786	Clear Lake City Water Authority
8280—281	1963, ch. 140 1965, ch. 623 1969, ch. 396	Dalby Springs Conservation District
8280—282	1963, ch. 234	City of Hillsboro Water and Sewer Authority
8280—283	1963, ch. 239	Sagemont Municipal Utility District of Harris County
8280—284	1963, ch. 241 1969, ch. 631	Galveston West Bay Municipal Utility District of Galveston County
8280—285	1963, ch. 243 1979, ch. 34	Clear Creek Drainage District of Galveston County
8280—286	1963, ch. 244	Bacliff Municipal Utility District of Galveston County
8280—287	1963, ch. 245 1971, ch. 186	Bayview Municipal Utility District of Galveston County

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		Harris County Water Control and Improvement District, Fonden Road
8280—288	1963, ch. 246	—Creation, powers, etc.
8280—288a	1967, ch. 611	—Land addition
8280—289	1963, ch. 256	Butterfield Water Control and Improvement District
8280—290	1963, ch. 286	McMullen County Water Control and Improvement District No. 2
8280—291	1963, ch. 304	River Plantation Municipal Utility District of Montgomery County
8280—292	1963, ch. 307 1977, ch. 212 1983, ch. 856	Orange County Drainage District of Orange County
8280—293	1963, ch. 312 1965, ch. 599 1969, ch. 136 1975, ch. 655	Lake Cities Municipal Utility Authority
8280—294	1963, ch. 321	Pearland Municipal Utility District of Brazoria County
8280—295	1963, ch. 322	Oak Manor Municipal Utility District of Brazoria County
8280—296	1963, ch. 337 1971, ch. 582 1979, ch. 271	Aransas County Conservation and Reclamation District
8280—297	1965, ch. 197 1967, ch. 647 1983, ch. 484, art. IV	Evergreen Underground Water Conservation District
8280—298	1965, ch. 277	Mackenzie Municipal Water Authority
8280—299	1965, ch. 319	Deep East Texas Interbasin Navigation District
8280—300	1965, ch. 331	South China Improvement District
8280—301	1965, ch. 335	Cardinal Meadows Improvement District
8280—302	1965, ch. 336	North Nome Improvement District
8280—303	1965, ch. 514	Three Rivers Water District
8280—304	1965, ch. 515 1967, ch. 89	Turkey Creek Improvement District
8280—305	1965, ch. 517 1971, ch. 326	Plateau Underground Water Conservation and Supply District
8280—306	1965, ch. 518	Treeline Improvement District
8280—307	1965, ch. 519 1967, ch. 590	Gulf Freeway Municipal Utility District
8280—308	1965, ch. 520	San Leon Municipal Utility District
8280—309	1965, ch. 521 1967, ch. 77 1969, ch. 578	Timberlake Improvement District
8280—310	1965, ch. 522	Pineview Water Supply District
8280—311	1965, ch. 528 1969, ch. 264	Clear Creek Basin Authority
8280—312	1965, ch. 531	Blue Water Municipal Utility District
8280—313	1965, ch. 532	Treasure Island Municipal Utility District
8280—314	1965, ch. 533 1967, ch. 586	Folletts Island Water Supply District
		Crosby Municipal Utility District
8280—315	1965, ch. 554	—Creation, powers, etc.
—	1973, ch. 565	—Validation
8280—316a	1967, ch. 624 1983, ch. 1050	Comanche Hills Utility District
8280—317	1965, ch. 559 1967, ch. 588	Harbor Improvement District of Galveston County
		Pirate's Cove Municipal Utility District
8280—318	1965, ch. 560	—Creation, powers, etc.
8280—318a	1969 ch. 722	—Land addition
8280—319	1965, ch. 561	Village of San Luis Municipal Utility District
8280—320	1965, ch. 584	Lazy River Improvement District
8280—321	1965, ch. 587	Rayburn Improvement District
8280—322	1965, ch. 598	Commodore Cove Improvement District

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8280—323	1965, ch. 600	Lakeside Beach Improvement District
8280—324	1965, ch. 604 1967, ch. 171 1969, ch. 268	Clear Woods Improvement District
8280—325	1965, ch. 605 1967, ch. 101 1969, ch. 579	Inverness Forest Improvement District
8280—326	1965, ch. 606 1967, ch. 139 1969, ch. 223	Sequoia Improvement District
8280—327	1965, ch. 613	Flamingo Isles Municipal Utility District
8280—328	1965, ch. 614	South Concho River Flood Control District
8280—329	1965, ch. 617	Acres Homes Improvement District
8280—330	1965, ch. 618 1967, ch. 99 1969, ch. 224	Wilcrest Improvement District
8280—331	1965, ch. 619 1967, ch. 141 1969, ch. 265	Briarwick Improvement District
8280—332	1965, ch. 620 1967, ch. 114 1969, ch. 580	Bender Road Improvement District
8280—333	1965, ch. 621 1967, ch. 140 1969, ch. 267	West Road Improvement District
8280—334	1965, ch. 622 1967, ch. 102 1969, ch. 266	Bordersville Improvement District
8280—335	1965, ch. 628	Lipan Creek Flood Control District
—	1981, ch. 473	—Creation, powers, etc.
8280—336	1965, ch. 629	—Directors, terms of office
8280—337	1965, ch. 645	Mason County River Authority
8280—338	1965, ch. 648 1967, ch. 652 1969, ch. 592	Newton County Navigation District
8280—339	1965, ch. 712 1967, ch. 648 1969, ch. 592 1979, ch. 708 1983, ch. 1049	Braeburn West Utility District
8280—340	1965, ch. 715	Galveston County Water Authority
8280—341	1965, ch. 719 1971, ch. 354	Cypress Valley Navigation District
8280—341 note	1967, ch. 308	Franklin County Water District
8280—342	1967, ch. 568	—Creation, powers, etc.
8280—343	1967, ch. 569	—Validation
8280—344	1967, ch. 572	Spewick Place Municipal Utility District
8280—345	1967, ch. 578	Bayou Vista Municipal Utility District
8280—346	1967, ch. 579	Highland Municipal Utility District
8280—347	1967, ch. 580	East Port Bolivar Municipal Utility District
8280—348	1967, ch. 581	Sunmeadow Municipal Utility District
8280—349	1967, ch. 582	Jack County Water Control and Improvement District No. 1
8280—350	1967, ch. 583	Dolphin Beach Municipal Utility District
8280—351	1967, ch. 587	League Land Municipal Utility District
8280—352	1967, ch. 589	West End Municipal Utility District
8280—353	1967, ch. 592	Staffordshire Municipal Utility District
8280—354	1967, ch. 593	Galveston Island Ranches Municipal Utility District
		Sweetwater Lake Municipal Utility District
		Spanish Grant Municipal County District

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8280—355	1967, ch. 601 1969, ch. 767 1983, ch. 706	Coastal Industrial Water Authority
8280—356	1967, ch. 602	Westheimer Road Municipal Utility District
8280—357	1967, ch. 603	Deer Municipal Utility District
8280—358	1967, ch. 604	Tidwell Timbers Municipal Utility District
8280—359	1967, ch. 605	North Forest Municipal Utility District
8280—360	1967, ch. 606	Westchester Municipal Utility District
8280—361	1967, ch. 607	Parkglen Municipal Utility District
8280—362	1967, ch. 608	Norchester Municipal Utility District
8280—363	1967, ch. 609	White Oak Municipal Utility District
8280—364	1967, ch. 610	Chaparral Municipal Utility District Blue Ridge Municipal Utility District
8280—365	1967, ch. 612 1969, ch. 392, § 5 1971, ch. 166	—Creation, powers, etc.
8280—365 note	1969, ch. 392, §§ 1 to 4	—Validation
8280—366	1967, ch. 613	Enchanted Oaks Municipal Utility District
8280—367	1967, ch. 614	Royal Forest Municipal Utility District
8280—368	1967, ch. 615	Oak Ridge Municipal Utility District
8280—369	1967, ch. 616	River Club Estates Municipal District
8280—370	1967, ch. 617	Nugent's Cove Municipal Utility District
8280—371	1967, ch. 618	Crescent Shores Municipal Utility District
8280—372	1967, ch. 619	River Oaks Municipal Utility District
8280—373	1967, ch. 620	Indian Hill Estates Municipal Utility District
8280—374	1967, ch. 621	Indiana Hill No. 2 Municipal Utility District
8280—375	1967, ch. 638	Willowisp Municipal Utility District
8280—376	1967, ch. 625	Yupson Cove Municipal Utility District
8280—377	1967, ch. 626	Indian Hill No. 1 Municipal Utility District
8280—378	1967, ch. 629	Old Snake River Municipal Utility District
8280—379	1967, ch. 633	Blue Ridge West Municipal Utility District
8280—380	1967, ch. 634	City of Cities Municipal Utility District, creation, powers, etc.
8280—381	1967, ch. 635	College View Municipal Utility District
8280—382	1967, ch. 636	Little York Municipal Utility District
8280—383	1967, ch. 637	Briar Ridge Municipal Utility District Willow Creek Water Control District
8280—384	1967, ch. 638	—Creation, powers, etc.
—	1981, ch. 475	—Directors, terms of office
8280—385	1967, ch. 640	Holiday Lakes Estates Municipal Utility District
8280—386	1967, ch. 642	Colonia-Chaparral Municipal Utility District
8280—387	1967, ch. 643 1969, ch. 221	Elm Creek Water Control District
8280—388	1967, ch. 644	Timberlakes Estates Municipal Utility District
8280—389	1967, ch. 648	Rio Grande Valley Pollution Control Authority
8280—390	1967, ch. 649	Point Lookout Estates Municipal Utility District
8280—391	1967, ch. 651	Windfern Municipal Utility District
8280—392	1967, ch. 653 1979, ch. 299	Lamar County Water Supply District
8280—393	1969, ch. 86	Baytown Levee District
8280—394	1969, ch. 107	Pendleton Bridge Utility District

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8280-395	1969, ch. 116	Thompson Road Utility District
8280-396	1969, ch. 117	Lynchburg Utility District
8280-397	1969 ch. 118	Palm Valley Estate Utility District
8280-398	1969 ch. 119	Pinehurst Utility District
8280-399	1969, ch. 139	North Belt Utility District
8280-400	1969, ch. 142	Collin-Denton County Water and Sanitation District
8280-401	1969, ch. 144	Harris County Water Control and Improvement District No. 132
8280-402	1969, ch. 145	Rayford Road Municipal Utility District
8280-403	1969, ch. 146	Cypress Creek Utility District
8280-404	1969, ch. 147	Tomball Road Utility District Harris County Utility District
8280-405	1969, ch. 148 1971, ch. 564	—No. 1
8280-406	1969, ch. 149 1971, ch. 435	—No. 3
8280-407	1969, ch. 150	—No. 5
8280-408	1969, ch. 151	—No. 7
8280-409	1969, ch. 152	Memorial Hills Utility District
8280-410	1969, ch. 182	Lake Tanglewood Utility District
8280-411	1969, ch. 187 1979, ch. 31	San Patricio County Drainage District
8280-412	1969, ch. 200 1973, ch. 529	Jackson County County-Wide Drainage District Willacy County Drainage District
8280-413	1969, ch. 10 1971, ch. 281 1983, ch. 672	—No.1
8280-414	1969, ch. 11 1971, ch. 280	—No. 2
8280-415	1969, ch. 216	Tehuacana Utility District
8280-416	1969, ch. 222 1971, ch. 998	Harris County Utility District No. 4, creation, powers, etc.
8280-417	1969, ch. 255	Post Oak Road Municipal Utility District
8280-418	1969, ch. 256	Burlington Colony Municipal Utility District
8280-419	1969, ch. 257	McHard Road Municipal Utility District
8280-420	1969, ch. 258	Court Road Municipal Utility District
8280-421	1969, ch. 259	Green Ridge Municipal Utility District
8280-422	1969, ch. 261	Cedar Bayou Park Utility District
8280-423	1969, ch. 263 1971, ch. 434	Harris County Utility District No. 2
8280-424	1969, ch. 270	Cape Royale Utility District
8280-425	1969, ch. 300	Cherry Hill Municipal Utility District
8280-426	1969, ch. 302	Manning Utility District
8280-427	1969, ch. 303	Boone Road Utility District
8280-428	1969, ch. 304	Memorial West Utility District
8280-429	1969, ch. 305	Candlewood Utility District
8280-430	1969, ch. 306	Langham Creek Utility District
8280-431	1969, ch. 309	Braes Utility District
8280-432	1969, ch. 310	Sulphur Springs Water District
8280-433	1969, ch. 338	Glenshire Municipal Utility District
8280-434	1969, ch. 350	Northgate Utility District
8280-435	1969, ch. 351	Belleau Wood East Utility District
8280-436	1969, ch. 355	Gulfway Utility District Ponderosa Forest Utility District
8280-437	1969, ch. 356	—Creation, powers, etc.
—	1973, ch. 419	—Validation
8280-438	1969, ch. 357	Bammel Utility District
8280-439	1969, ch. 384	Chimney Rock Municipal Utility District
8280-440	1969, ch. 386	Fondren Lake Municipal Utility District

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8280—441	1969, ch. 390	Woodland North Utility District
8280—442	1969, ch. 391	Harris County Utility District No. 6
8280—443	1969, ch. 393	Hidalgo County Drainage District No. 2
8280—444	1969, ch. 395	Timber Lane Utility District
8280—445	1969, ch. 397	Quail Valley Utility District
8280—446	1969, ch. 398	Sageglen Municipal Utility District
8280—447	1969, ch. 431	White Bluff Water Control and Improvement District of Hill County
8280—448	1969, ch. 481 1977, ch. 698	Kerrville South Utility District [repealed]
8280—449	1969, ch. 582	Greenbriar Utility District
8280—450	1969, ch. 594	Arroyo Estates Utility District
8280—451	1969, ch. 600	East Plantation Utility District
8280—452	1969, ch. 616	Greenwood Utility District
8280—453	1969, ch. 617	Parkway Utility District
8280—454	1969, ch. 621	Timber Creek Utility District
8280—455	1969, ch. 623 1982, ch. 1082	Rio Grande Valley Municipal Water Authority
8280—456	1969, ch. 633	Fallbrook Utility District
8280—457	1969, ch. 636	Burleson County Water Control and Improvement District No. 1
8280—458	1969, ch. 639	Rhea Utility District
8280—459	1969, ch. 681	Galveston County Flood Control District
8280—460	1969, ch. 694	Bay Ridge Utility District
8280—461	1969, ch. 714	Hueco Valley Utility District
8280—462	1969, ch. 716	Tigua-Hueco Utility District
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